


Board of County Commissioners Agenda Request

Date of Meeting: October 8, 2002
Date Submitted: October 3, 2002
To: Honorable Chairman and Members of the Board
From: Parvez Alam, County Administrator 
Gary W. Johnson, Director, Community Development Department
Subject: Ratification of Actions Taken at the September 17, 2002 Workshop on Development Review Thresholds and Quasi-Judicial Proceedings

Statement of Issue:

Ratify Board actions taken at the September 17, 2002 Workshop on Development Review Thresholds and Quasi-Judicial Proceedings.

Background:

On September 17, 2002, staff conducted a workshop with the Board to present recommendations regarding revisions to the County's current land development review thresholds, and to provide the Board with information regarding the associated quasi-judicial proceedings. The workshop was scheduled at the direction of the Board as a result of several recent land development proposals reviewed by the County's Development Review Committee, including the proposed reopening of the Seminole Raceway and the proposed siting of two broadcast towers.

Analysis:

At the workshop, staff outlined the current land development review processes and related thresholds. Staff also provided the Board with a summary by year of the total number of projects that have been reviewed under each development review process (Limited Partition Subdivisions, Type A, B, C, and D site and development plans). An overview of the five (5) projects (representing approximately one percent of the total projects reviewed) that had been appealed since 1996 was also presented to the Board. Staff then presented the Board with several options regarding possible revisions to the land development review thresholds. These included changing the numerical thresholds associated with each review threshold, and revising the threshold sections associated with the Type C review process to provide for the flexibility to elevate projects to the Board for review. The Board indicated during the workshop that the latter option was desired.

Subsequent to the Board discussion with staff regarding the County's land development review thresholds, the County Attorney presented an overview of the optional quasi-judicial process for development approvals. During the presentation, the County Attorney outlined the issues that would be involved with the Board of County Commissioners becoming more involved with the development approval process. These issues included extended Board meeting times resulting from the formal hearing process, prohibition of ex parte communications (communications between the decision maker and the party or parties outside of the formal hearing), and the need to establish the

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special master process to the appeal process. The County Attorney recommended that the Board consider the adoption of a "special master" process consistent with recently adopted State enabling statutes.

During the workshop, the following Board direction was provided:

•	Direct staff to begin the ordinance adoption process (Planning Commission Comprehensive Plan consistency review and Board adoption public hearings) for an amendment that would revise the threshold section for Type C site and development plans (Section 10-1479.1 of the Land Development Code) to provide the County Administrator or designee the ability to elevate Type B level projects to Type C level projects (final approval by the BCC) similar to the provisions currently in Section 10-1479.6 of the Land Development Code.
•	Direct staff to incorporate a Type C level review requirement for all proposed broadcast towers into the draft Broadcast Tower Regulation Ordinance that is currently under development by staff with assistance from a BCC-appointed citizen's committee.
•	Direct staff to draft a proposed ordinance implementing the special master process on specific types of development orders for Board consideration at a future Commission meeting.

Options:

1. ✱ Ratify actions taken at the September 17, 2002 Workshops on Development Review Thresholds and Quasi-Judicial Proceedings.
2. Do not ratify actions taken at the September 17, 2002 Workshops on Development Review Thresholds and Quasi-Judicial Proceedings.
3. Board Direction

Recommendation:

Option #1.


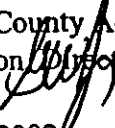
Attachments:

- #1. September 17, 2002 Development Review Thresholds Workshop Request
- #2. September 17, 2002 Optional Quasi-Judicial Process for Development Approvals Workshop Materials

**Board of County Commissioners
Workshop Request**

Attachment # 1
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To: Honorable Chairman and Members of the Board

From: Parwez Alam, County Administrator 
Gary W. Johnson, Director, Community Development Department 

Date: September 17, 2002

Subject: Development Review Thresholds

STATEMENT OF ISSUE

To conduct a workshop regarding the review thresholds associated with proposed land development projects in the County.

BACKGROUND

At the Board's June 11, 2002 meeting, staff was directed to conduct a workshop on the review thresholds associated with proposed land development projects in the County. The Board's direction was predicated by recent land use and development proposals pertaining to the proposed siting of a broadcast tower and reopening of a raceway.

In 1996, the Board of County Commissioners adopted the current procedure for the review and approval of proposed subdivisions and site and development plans. This procedure is outlined in Division 4 of Article XI of Chapter 10 of the Leon County Code of Laws (Land Development Code/ Attachment #1). The process includes three (3) general levels of review: administrative or staff level review and approval; the Development Review Committee (DRC); and, the Board of County Commissioners. These levels of review and approval are implemented through the Limited Partition Subdivision and Type A Site and Development Plan Review processes (administrative or staff level), Type B Site and Development Plan Review process (DRC level), and the Type C and D Site and Development Plan Review processes (BCC level). Attachment #2 provides a procedural flow chart for each level of development review.

The Board's action in 1996, concerning revisions to the County's development review process, was undertaken to make the County's review process similar to the City of Tallahassee's review process, to streamline (reduce the overall review and approval time frames) the development review process, and to address the impact of various Florida Supreme Court decisions (in particular the Snyder case) which clarified the ministerial nature of subdivision and site plan review as opposed to the legislative nature of comprehensive plan adoption and amendment. The County Attorney's Office will be outlining these differences following this workshop with particular emphasis on the additional considerations, including the implications of required quasi-judicial proceedings and the potential impacts associated with the ex parte communication restrictions that are attendant to the legislative versus the ministerial functions of local government land use decisions.

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ANALYSIS

As outlined in Attachment #2, all four levels (Type A through D) of development review require a pre-application meeting which is noticed by the posting of a sign on site and notification via mail to surrounding property owners. This required public meeting is followed by formal submittal of the appropriate application and supporting materials which are reviewed by staff in a formal technical review meeting. Type A Site and Development Plan are either approved, approved with conditions, or denied subsequent to the staff technical review meeting if the application is determined to be sufficient. Type B level plans proceed to an advertised DRC meeting for final determination. Type C proposals proceed to the DRC for hearing and recommendation and then to the Board who makes the final decision on the proposed development project. Type D level projects are also heard before the DRC with a recommendation which is forwarded to the Planning Commission for their recommendation prior to final BCC action of the proposal. Actions before the DRC, Planning Commission, and BCC relating to development proposals are publicly noticed by a sign onsite and advertisement in the newspaper.

Since the adoption by the Board in 1996 of the County's current subdivision and site and development review provisions as outlined in Division 4 of Article XI of Chapter 10 of the Leon County Code of Laws (Attachment #1), nearly 400 land development projects have been approved. Attachment #3 provides a summary of the approved projects (pending projects are noted as well) by level of review. As noted on Attachment #3, since 1996 approximately 97% of proposed development projects have been approved administratively by staff (Limited Partition Subdivisions and Type A Site and Development Plans) or by the DRC (Type B Site and Development Plans). The Board of County Commissioners has approved, through either the Type C or Type D Site and Development Plan review processes, approximately 3% of land development projects in the County since 1996.

One-percent (five projects) of approved development projects has been appealed since 1996. All of these projects were reviewed and approved pursuant to the Type B Site and Development Plan process. These projects included the Marsh Landing Subdivision, Trinity Church Cellular Tower, the County's Chaires Park, Monterey Pine Subdivision, and Seminole Raceway. The Seminole Raceway appeal is currently pending. The DRC's approval decisions on three projects were upheld on appeal, and one appeal (Monterey Pines) was dropped based on a settlement agreement between the appellant and the developer.

Attachment #4 includes a series of tables that outline the current thresholds associated with the four primary levels of County subdivision and site and development plan review. The thresholds, which are established by the LDC, are based on the zoning district and intensity (square feet) or density

ANALYSIS: (continued)

(dwelling units) of the proposed development project. Additionally, pursuant to Section 10-1551 of the LDC, all developments that propose division of property which requires platting are required to be approved by the Board of County Commissioners, notwithstanding the threshold of review.

An option would be for the Board to revise the current thresholds to increase the number of proposed projects that would be required to complete the Type C review process. This action would potentially increase the number of development proposals required to receive final approval by the BCC. However, due to the inability to predict the potential off-site impacts that may be associated with the various types of development proposals, this approach may not provide the appropriate mechanism for addressing the site-specific and often unique issues that may be associated with a development project.

Another option would be for the Board to amend the current threshold provisions associated with the Type C review process to provide the County's DRC the ability to elevate development proposals to the BCC, based on the model currently outlined under the Type B review thresholds. Pursuant to Section 10-1479. 6. of the LDC, the County Administrator or designee is granted the ability to elevate proposed development projects from a Type A to Type B level review based on "unique location characteristics arising from proximity to existing or approved low density residential development" or "which is proposed on a site with 40 or more percent coverage by conservation or preservation areas as defined by the Comprehensive Plan." This code provision provides for flexibility in the application of the thresholds outlined in the LDC while affording the public that may be impacted by the proposed project additional (greater) public participation and notification. Additionally, the proposed project is elevated from a staff administrative review level to the DRC for final consideration. Presently, the County's LDC does not provide for the ability to elevate Type B level projects from the DRC to the Board of County Commissioners through the Type C review process.

Finally, the Board's appointed citizen's committee that has been requested to assist staff with the development of a Broadcast Tower Regulation Ordinance for the County, has recommended that the ordinance include provisions that would require Type C (Board approval) of all proposed broadcast towers in the County. The draft ordinance, including this recommendation concerning the appropriate review level for proposed broadcast towers, will be before the Board for consideration in October.

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OPTIONS

1. Direct staff to begin the ordinance adoption process (Planning Commission Comprehensive Plan consistency review and Board adoption public hearings) for an amendment that would revise the threshold section for Type C site and development plans (Section 10-1479.1 of the LDC) to allow the DRC the ability to elevate Type B level projects to Type C level projects (final approval by the BCC) similar to the provisions currently in Section 10-1479. 6. of the LDC as outlined above.
2. Provide staff with direction concerning the appropriate level of development review to incorporate into the draft Broadcast Tower Regulation Ordinance that is presently under development with the assistance of the BCC-appointed citizen's committee.
3. Direct staff to draft an amendment to the LDC which would revise the thresholds for Type B and Type C level site and development plan reviews to potentially increase the number of proposed development projects that would require final Board approval.
4. Provide staff other direction regarding the County's site and development plan review thresholds.

RECOMMENDATION

Options 1 and 2.

ATTACHMENTS

Attachments: #1	Division 4 of Article XI of Chapter 10 of the Leon County Code of Laws
#2	Development Review Procedural Flowcharts
#3	Table of Approved Land Development Projects by Threshold/Year
#4	Site and Development Plan Review Thresholds

PA/GWJ/DM

**DIVISION 4. PROCEDURE FOR REVIEW
AND APPROVAL OF SITE AND
DEVELOPMENT PLANS*****Sec. 10-1476. Purpose and intent.**

The purpose of this division is to establish provisions pertaining to site and development plan review and approval.

This division shall allow for variable levels of review based on project complexity, characteristics, and potential impacts. No more than one site and development plan application shall be pending for review and development on any one parcel of land, and only one approved site and development plan shall be in effect for any one parcel of land at any time.

(Ord. No. 96-02, § 14, 2-27-96)

Sec. 10-1477. Development review and approval system.

The development review and approval system shall consist of the following elements:

1. *Land use and project determination.* The purpose of land use and project determination is to clarify land use and permit issues and determine the appropriate review type. Land use and project determinations shall be made by the county administrator or designee in the form of a permitted use verification. Such decisions on permitted use verifications are not appealable. Furthermore, any permitted use verification appeals pending as of May 1, 1997, are hereby dismissed with prejudice.
2. *Project status determination.* For any development proposal not required to comply with the provisions of Article XI, the applicant must request a project status determination (PSD) or a certificate of

concurrency from the growth and environmental management department prior to submitting an application for development approval. This PSD will indicate on what basis the proposed project is exempted or vested from the provisions of this article and identify the development standards that will be applied in the review of the proposed project.

3. *Preapplication conference.* An applicant may request a preapplication conference to set forth the specific application requirements once a development review track is identified.
4. *Development review types.* There are four different review types of development review, based on the provisions of this chapter, project complexity, site characteristics, and all applicable land development regulation requirements, being Type A, B, C, and D review.
5. *Exceptions.* The following shall be exceptions to those review types set forth in Subsection 4. above:
 - (a) The construction or modification of one single-family dwelling unit; a two-, three-, or four-family dwelling unit; or a manufactured home; or the construction of an accessory building to such a dwelling on a lot or parcel with legal access.
 - (b) Commencement of home occupations as defined in and in accordance with this Code.
 - (c) Development of nonresidential or multiple use development providing for not more than 1,000 square feet of total gross floor area after construction or ten percent increase of total onsite impervious area. This exemption applies to additions to existing structures and uses and to new construction and uses on a non-cumulative basis. Non-residential development of less than 1,000 square feet that would increase the total gross floor area of a development by 20 percent or more shall require that

*Editor's note—Ord. No. 96-02, § 14, adopted Feb. 27, 1996, repealed former Div. 4, §§ 10-1476—10-1491, relative to the procedure for review and approval of site and development plans, and enacted a new Div. 4 to read as herein set out. The provisions of former Div. 4 derived from Ord. No. 92-9, § 1, adopted March 10, 1992; Ord. No. 93-9, adopted April 27, 1993; Ord. No. 93-10, adopted April 27, 1993; Ord. No. 94-25, adopted Dec. 13, 1994.

the applicant demonstrate, through the completion of an application for exception to site plan, that such development will not result in an increase in total on-site impervious area of ten percent or greater.

- (d) Changes in tenancy in already built space (existing structures), provided that the conversion requires no substantial modification to the exterior of the structure or modifications to the associated parking area. Type A review applies to those changes of tenancy involving substantial modification to the exterior of the building or modification to the associated parking area, as determined by the county administrator or designee.
- (e) The development or alteration of any building used exclusively for agriculture, horticulture, or floriculture located in the rural land use district; provided, however, that construction of dwellings units, not otherwise exempt, or commercial or industrial facilities to process agricultural, horticultural or floricultural beyond harvest, storage or sale of the raw materials is not exempt from this article.
- (f) Change of occupancy. The establishment, exclusively through change of occupancy, of new uses in an existing structure shall not be subject to Type A site and development plan review; but, shall be required to meet all other applicable development standards of this chapter. However, Type A review shall apply to those changes of occupancy involving substantial modifications to the exterior of the building or modification to the associated parking area, as determined by the county administrator or designee.
- (g) Industrial development. New or expansion of existing industrial uses or development of up to 10,000 square

feet, if site is zoned industrial and infrastructure extensions to the subject site are not required.

- (h) Exceptions specified under the definition of subdivision in Section 10-1. Any and all landowner(s) of a parcel that is divided or developed pursuant to this exception shall file an affidavit, on a form approved by the county attorney, with the clerk of the court in the public records of the county. The affidavit shall specify that the property has been modified or subdivided, the number of new parcels, if any, created, the exemption type used for this action, the legal description of the original location of the parcel(s), and the metes and bounds descriptions of each new parcel.

(Ord. No. 96-02, § 14, 2-27-96; Ord. No. 97-10, § 4, 6-10-97; Ord. No. 99-15, § 32, 5-25-99)

Sec. 10-1478. Type A review.

Type A review shall be applied to those types of site and development plans listed in subsections 1. through 6. below. For the purpose of this section, non-residential site and development plans include, but are not limited to certain commercial, office, institutional, and/or industrial development.

1. *Properties in the Residential Preservation, Lake Protection, RA, R-1, R-2, R-3, R-4, R-5 and OS Zoning Districts:*
 - (a) *Residential site and development plans:* Proposed residential site and development plans containing ten or fewer residential dwelling units.
 - (b) *Expansion of existing churches or schools and institutional facilities:* Proposed site and development plans for the expansion of existing churches or schools or institutional facilities of up to and including 4,999 gross building square feet.
 - (c) Other non-residential uses of 5,000 or less gross building square footage in the Lake Protection District.

2. Properties in the OR-1, OR-2, and C-1, BC-1, BC-2, BCS, BOR Urban Fringe, Lake Talquin Urban Fringe or Rural Zoning Districts:

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 20 or fewer residential dwelling units.
- (b) *Non-residential site and development plans:* Proposed non-residential site and development plans containing 10,000 or less gross building square footage.

3. Properties in the OR-3, CM, MR-1, C-2, CP (except as noted in 7 below), IC (with an approved concept plan pursuant to Section 10-1480), UP-1, UP-2, OA-1, M-1 PUD, and DRI Zoning Districts:

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 200 or fewer residential dwelling units.
- (b) *Non-residential site and development plans:* Proposed non-residential site and development plans containing 40,000 or less gross building square footage.

4. *Properties in the Activity Center Zoning District:*

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 400 or less residential dwelling units.
- (b) *Non-residential site and development plans:* Proposed non-residential site and development plans containing 100,000 or less gross building square footage.

6. *Rural Community Zoning District:*

- (a) Residential development of not more than ten dwelling units;
- (b) Non-residential development not exceeding 50,000 gross building square footage consistent with the provisions of section 10-1208(b).

7. *Industrial Zoning District:*

New or expansion of existing industrial uses or development greater than 10,000 square feet, but less than 40,000 square feet, or less than 10,000 square feet if infrastructure extensions are required.

8. *Commercial Parkway Zoning District:*

Redevelopment of sites, notwithstanding the square footage.

9. *M-H Zoning District:*

Expansion of an existing mobile home park.

10. *Review requirements.*

- (a) *Preapplication:* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type A site and development plan application. A preapplication meeting with staff may be scheduled at the option of the applicant; however, the applicant is encouraged to attend the department of growth and environmental management's "Quick Check" session to discuss the proposed project in an informal preapplication setting. Interested parties are permitted to attend and participate in the preapplication meeting.
- (b) *Application:* The applicant shall submit the required site and development plan to the director of growth and environmental management or designee.
- (c) *Determination of completeness:* Within ten working days after receipt of the application for site and development plan approval, the director of growth and environmental management or designee shall determine whether the application contains all required information at the required level of detail, and shall advise the applicant of all areas of deficiency. This notification shall specify any additional

information and level of detail required in order to meet the requirements of this section.

In the event that an applicant fails to submit the required additional information within 30 calendar days of the date of the notice of deficiency, the director of growth and environmental management or designee shall consider the application to be withdrawn. The director of growth and environmental management or designee may grant extensions of up to 30 days at the request of the applicant; provided any such request for an extension is received prior to the expiration of the relevant time period.

Upon determination of completeness, the growth and environmental management director or designee may refer the application to the DRC. All Type A site and development plans that propose the subdivision of property requiring platting shall be referred to the DRC for review. The DRC shall make a determination within ten working days of the referral of an application. The referral of an application to the DRC shall stay the period for the growth and environmental management director's or designee's decision.

- (d) *Director of growth and environmental management review:* The director of growth and environmental management or designee shall review the plan; and, if necessary, receive input from any appropriate agencies. The growth and environmental management director or designee shall notify the applicant of the decision within ten working days of receipt of a complete application, after providing notice to the applicant and other parties identified in section (e) below.
- (e) *Notice.* Prior to a decision on the application, but after the application

is complete, the growth and environmental management director or designee shall provide notice of the pendency of such application to all property owners actually abutting the subject site, as said owners are depicted on the most current tax rolls in the office of the Leon County Property Appraiser. The growth and environmental management director or designee shall also provide notice of the pendency of such application to registered neighborhood associations.

- (f) *Formal proceedings.*: The decision of the growth and environmental management director or designee shall become final fifteen calendar days after it is rendered unless a person who qualifies as a party, as defined in Article XI of Chapter 10 at Division 9 of this Code, has filed comments in response to subsection (e), above, and shall also have filed a notice of intent to file a petition for formal proceedings, together with the filing fee within this time period, and subsequently files within thirty calendar days after the decision is rendered, the petition for formal proceedings, before a hearing officer. Failure to file is jurisdictional and will result in a waiver of the hearing. Appeals heard by a hearing officer will be conducted in accordance with the procedures outlined in section 10-1485. Appeals of the hearing officer's decision shall be reviewable by the Circuit Court.

(Ord. No. 96-02, § 14, 2-27-96; Ord. No. 97-10, § 5, 6-10-97; Ord. No. 97-12, § 41, 7-8-97; Ord. No. 97-14, § 7, 7-29-97; Ord. No. 98-09, § 13, 7-28-98; Ord. No. 98-13, § 7, 9-15-98; Ord. No. 99-15, § 33, 5-25-99; Ord. No. 00-19, § I, 6-15-00)

Sec. 10-1479. Type B review.

Type B review shall be applied to the types of site and development plans listed in Subsections 1 through 7, below. For the purpose of this section,

non-residential site and development plans include, but are not limited to, commercial, office, institutional, and industrial development.

1. *Properties in the Residential Preservation, Lake Protection, RA, R-1, R-2, R-3, R-4 R-5 and OS Zoning Districts:*

- (a) *Residential site and development plan:* Proposed residential site and development plans containing 11 to 49 residential dwelling units.
- (b) *Additions to or new construction of churches or schools or institutional facilities:* Proposed site and development plans for the expansion of existing churches or schools or institutional facilities, or the construction of new churches, schools, or institutional facilities, containing 5,000 to 24,999 gross building square feet.
- (c) *Other non-residential uses containing 5,000 to 24,999 gross building square footage.*

2. *Properties in the Mixed Use A OR-1, OR-2 and C-1, Urban Fringe, Lake Talquin Urban Fringe or Rural Zoning Districts:*

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 21 to 149 residential dwelling units.
- (b) *Non-residential site and development plans:* Proposed non-residential site and development plans containing 10,000 to 149,999 gross building square footage.

3. *Properties in the OR-3, CM, MR-1, C-2, undeveloped sites in CP (redevelopment sites in CP are addressed in 10-1478), UP-1, UP-2, OA-1, IC, DRI, PUD, and M-1 Zoning Districts:*

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 200 to 299 residential dwelling units.
- (b) *Non-residential site and development plans:* Proposed non-residen-

tial site and development plans containing 40,000 to 249,999 gross building square footage.

4. *Properties in the Activity Center Zoning District:*

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 400 to 499 residential dwelling units.
- (b) *Non-residential site and development plans:* Proposed non-residential site and development plans containing 100,000 499,999 gross building square footage.

5. *Industrial zoning districts.* New or expansion of existing industrial uses or development containing 40,000 to 249,999 square footage.

6. A residential or non-residential site and development plan in any zoning district which has unique location characteristics arising from proximity to existing or approved low density residential development, as determined by the county administrator or designee, or which is proposed on a site with 40 or more percent coverage by conservation or preservation areas as defined by the comprehensive plan.

7. *Rural Community Zoning District:*

- (a) *Residential site and development plans:* Proposed residential site and development plans containing 11 to 49 residential dwelling units.
- (b) *Non-residential development plans:* Proposed non-residential site and development plans containing 50,000 to 99,000 gross building square footage.

8. *MH.* New manufactured home parks.

9. *Review requirements.*

- (a) *Preapplication:* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type B site and development plan application. The applicant shall schedule an appointment and meet with the

county administrator or designee and technical assistance staff to discuss the application, the procedures for review and approval, and the applicable regulations and requirements for the review type. The county administrator or designee shall determine the level of application detail and specific methodologies required for petitions seeking Type B development approval. Interested parties are permitted to attend and participate in the preapplication meeting. Public notice shall be mailed at least five calendar days in advance of the preapplication meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within 500 feet of the project and to neighborhood and business associations.

- (b) *Application:* The applicant shall submit the required site and development plan to the county administrator or designee for distribution to the DRC.
- (c) *Determination of completeness:* Within ten working days after receipt of the application for site and development plan approval, the director of growth and environmental management or designee shall determine whether the application contains all required information at the required level of detail; and shall advise the applicant of all areas of deficiency. This notification shall specify the additional information and level of detail required in order to meet the requirements of this section. In the event that an applicant fails to submit the required additional information within 30 calendar days of the date of the notice of deficiency, the director of growth and environmental management or designee shall consider the application to be withdrawn. The director of growth and environmen-

tal management or designee may grant extensions of up to 30 days at the request of the applicant; provided any such request for an extension is received prior to the expiration of the relevant time period. Upon a determination of completeness, the county administrator or designee shall refer the application to the DRC.

- (d) *Public notice:* Public notice of the DRC meeting shall be given at least five calendar days in advance of the meeting by publication in a newspaper of regular and general circulation in the county. In addition, written notice shall be mailed at least five calendar days in advance of the DRC meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within 500 feet of the project and to registered neighborhood and business associations. The public notice shall advise such persons of the application, and specify that no testimony may be heard by the DRC at their meeting since it is an administrative review and not subject to quasi-judicial provisions.
- (e) *DRC meetings:* Meetings of the DRC are administrative in nature and not subject to quasi-judicial provisions. No testimony shall be received from any applicant or member of the public during the course of the DRC meeting, although written comments may be provided to the DRC and the meetings shall be open to public attendance. Each member of the DRC is responsible for providing proposed written findings which identify whether a development meets the applicable criteria and standards of this chapter and those imposed by other applicable ordinances, regulations and/or adopted standards of the county. The proposed written find-

ings shall be transmitted to other members of the DRC, the applicant, and made available for public inspection at least one working day prior to consideration by the DRC. The proposed written findings shall be the basis for a recommendation by each DRC member to the DRC as a whole to approve, approve with conditions, deny, or continue consideration of an application to a date and time certain.

- (f) *DRC review:* The DRC shall review the plans at any scheduled meeting, and shall prepare and submit to the county administrator or designee an itemized list of findings of fact which support approval, approval with conditions, or denial of the application; or shall request additional material and data determined to be necessary to undertake the required review and continue its review to a date and time certain. The county administrator or designee shall notify the applicant of the DRC decision within five working days of the decision by the DRC.
- (g) The decision of the DRC shall become final 15 calendar days after it is rendered unless a person who qualifies as a party, as defined in Article XI of Chapter 10 at Division 9 of this Code, has filed comments in response to Subsection (d), above, and shall also have filed a notice of intent to file a petition for formal proceedings, together with the filing fee within this time period, and subsequently files within 30 calendar days after the decision is rendered, the petition for formal proceedings, before a hearing officer. Failure to file is jurisdictional and will result in a waiver of the hearing. Appeals heard by a hearing officer will be conducted in accordance with the procedures outlined in Section 10-1485. Appeals of the hearing officer's deci-

sion shall be reviewable by the Circuit Court. Failure to file is jurisdictional and will result in a waiver of the hearing.

(Ord. No. 96-02, § 14, 2-27-96; Ord. No. 96-14, § 1, 10-29-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 97-12, § 42, 7-8-97; Ord. No. 97-14, § 8, 7-29-97; Ord. No. 98-09, § 14, 7-28-98; Ord. No. 98-13, § 8, 9-15-98; Ord. No. 00-19, § 1, 6-15-00; Ord. No. 00-34, § 1, 9-12-00)

Sec. 10-1479.1. Type C review.

Type C review shall be applied to the types of site and development plans listed in Subsections 1. through 7., below. For the purpose of this section, non-residential site and development plans include, but are not limited to, commercial, office, institutional, and industrial development.

1. Properties in the Residential Preservation, Lake Protection, R-1, R-2, R-3, R-4, R-5, and OS Zoning Districts:
 - (a) *Residential site and development plan:* Proposed residential site and development plans containing 50 or more residential dwelling units.
 - (b) *Additions to or new construction of churches or schools or institutional facilities:* Proposed site and development plans for the expansion of existing churches or schools or institutional facilities, or the construction of new churches, schools, or institutional facilities, containing 25,000 or more gross building square feet.
 - (c) Other non-residential uses containing 25,000 or more gross building square footage.
2. Properties in the OR-1, OR-2, C-1, BC-1, BC-2, BCS, BOR, Urban Fringe, Lake Talquin Urban Fringe or Rural Zoning Districts:
 - (a) *Residential site and development plans:* Proposed residential site and development plans containing 150 or more residential dwelling units.
 - (b) *Non-residential site and development plans:* Proposed non-residen-

tial site and development plans containing 150,000 or more gross building square footage.

3. Properties in the OR-3, CM, MR-1, C-2, undeveloped sites in CP (redevelopment sites in CP are addressed in [Section] 10-1478), IC (with an approved concept plan pursuant to Section 10-1480), UP-1, UP-2, OA-1, DRI, PUD, and M-1 Zoning Districts:
 - (a) *Residential site and development plans:* Proposed residential site and development plans containing more than 300 residential dwelling units.
 - (b) *Non-residential site and development plans:* Proposed non-residential site and development plans containing 250,000 or more gross building square footage.
4. *Properties in the Activity Center Zoning District:*
 - (a) Residential site and development plans: Proposed residential site and development plans containing 500 or more residential dwelling units.
 - (b) Non-residential site and development plans: Proposed non-residential site and development plans containing 500,000 or more gross building square footage.
5. *Industrial Zoning District.* New or expansion of existing industrial uses or development of 250,000 gross building square footage or greater.
6. *Rural Community Zoning District:*
 - (a) Residential development of not less than fifty dwelling units;
 - (b) Non-residential development not less than 99,999 building square footage.
7. *Review requirements.*
 - (a) *Preapplication:* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type C site and development plan application. The applicant shall schedule an appointment and meet with the

county administrator or designee and technical assistance staff to discuss the application, the procedures for review and approval, and the applicable regulations and requirements for the review type. The county administrator or designee shall determine the level of application detail and specific methodologies required for petitions seeking Type C development approval. Interested parties are permitted to attend and participate in the preapplication meeting. Public notice shall be mailed at least five calendar days in advance of the preapplication meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within 500 feet of the project and to neighborhood and business associations.

- (b) *Application:* The applicant shall submit the required site and development plan to the county administrator or designee for distribution to the DRC.
- (c) *Determination of completeness:* Within ten working days after receipt of the application for site and development plan approval, the director of growth and environmental management or designee shall determine whether the application contains all required information at the required level of detail; and shall advise the applicant of all areas of deficiency. This notification shall specify the additional information and level of detail required in order to meet the requirements of this section.

In the event that an applicant fails to submit the required additional information within 30 calendar days of the date of the notice of deficiency, the director of growth and environmental management or designee shall consider the application to be withdrawn. The director of growth and

environmental management or designee may grant extensions of up to 30 days at the request of the applicant; provided any such request for an extension is received prior to the expiration of the relevant time period.

Upon a determination of completeness, the county administrator or designee shall refer the application to the DRC.

- (d) *Public notice:* Public notice of the DRC meeting shall be given at least five calendar days in advance of the meeting by publication in a newspaper of regular and general circulation in the county. In addition, written notice shall be mailed at least five calendar days in advance of the DRC meeting to the current address (based upon the most current tax rolls in the office of the Leon County Property Appraiser) of each property owner within 500 feet of the project and to registered neighborhood and business associations. The public notice shall advise such persons of the application, and specify that no testimony may be heard by the DRC at their meeting since it is an administrative review and not subject to quasi-judicial provisions.

- (e) *DRC meetings:* Meetings of the DRC are administrative in nature and not subject to quasi-judicial provisions. No testimony shall be received from any applicant or member of the public during the course of the DRC meeting, although the meetings shall be open to public attendance. Each member of the DRC is responsible for providing proposed written findings which identify whether a development meets the applicable criteria and standards of this chapter and those imposed by other applicable ordinances, regulations and/or adopted standards of the county. The proposed written findings shall be

transmitted to other members of the DRC, the applicant, and made available for public inspection at least one working day prior to consideration by the DRC. The proposed written findings shall be the basis for a recommendation by each DRC member to the DRC as a whole to approve, approve with conditions, deny, or continue consideration of an application to a date and time certain.

- (f) *DRC review:* The DRC shall review the plans at any scheduled meeting, and shall prepare an itemized list of findings of fact which support a recommendation of approval, approval with conditions, or denial of the application; or shall request additional material and data determined to be necessary to undertake the required review and continue its review to a date and time certain. The DRC shall make a recommendation on the application to the Board of County Commissioners. After a public hearing, the Board of County Commissioners shall approve, approve with conditions, deny the application, or continue their consideration to a date and time certain.

- (g) *Finality of decision.* The decision of the Board of County Commissioners may be reviewed by the Circuit Court.

(Ord. No. 97-10, § 7, 6-10-97; Ord. No. 97-12, § 43, 7-8-97; Ord. No. 97-14, § 9, 7-29-97; Ord. No. 98-09, § 15, 7-28-98; Ord. No. 98-13, § 9, 9-15-98; Ord. No. 00-19, § I, 6-15-00)

Sec. 10-1480. Type D review.

1. *Type D review shall be applied to specific uses allowed only as planned unit developments; the creation of Historic Preservation or Canopy Road Special Regulatory Overlays; Developments of Regional Impact; Florida Quality Developments; and, transitional residential facilities.* The applicant shall obtain a permitted use verification, as applicable, prior to filing a Type D site and development plan application. Such applications shall be reviewed by the DRC, which shall

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make a recommendation to the planning commission. The planning commission shall review the application at a public hearing and make a recommendation to the Board of County Commissioners. Quasi-judicial proceedings may be invoked pursuant to the provisions of Article XI, Division 9 of this Code. After a public hearing, the Board of County Commissioners shall approve, approve with conditions, deny the application, or continue their consideration to a date and time certain. Type D review provides a flexible process affording any applicant with the ability to demonstrate the appropriateness of modifying any standards set forth in this chapter.

2. *Developments of Regional Impact (DRI) and Florida Quality Developments (FQD).*

- (a) Any development qualifying for review as a DRI or FQD as defined by Florida Statutes shall be subject to initial review pursuant to the requirements specified under this chapter. Such review shall, as a minimum, include the submittal requirements specified under Florida Statutes for an application for development approval (ADA) and those submittal requirements specified by subsection 10-1480.3.
- (b) Prior to the Board of County Commissioners' consideration of any approval, or any proposed change to an approved DRI or FQD, or for a Board of County Commissioners' consideration for a determination of substantial deviation to an approved DRI or FQD, the planning commission shall review the proposed change or request for determination of substantial deviation at a public hearing and shall transmit its recommendation to the Board of County Commissioners for its consideration. Quasi-judicial proceedings may be invoked pursuant to the provisions of Article XI, Division 9 of this Code. The planning commission shall render its recommendation considering:
 - (i) Whether the proposed change is a substantial deviation,

- (ii) Whether the proposed change is consistent with the comprehensive plan, and
 - A. Whether the proposed change is consistent with other applicable codes, rules, regulations, and policies of the county.

3. *Submittal requirements.* Applications for Type D review shall include:

- (a) Concept plan:
 - (i) A general plan for the use of all lands within the Type D development application. Such plans shall indicate the general location of residential areas (including density and unit types); open space, parks, passive or scenic areas; and, commercial areas (including square footage and height).
 - (ii) A plan of vehicular circulation showing the general locations and right-of-way widths of roads, the capacity of the system and access points to the external thoroughfare network.
 - (iii) Quantitative summary of land uses (acres, square feet, number of dwelling units) and parking spaces. A report shall be submitted that includes a statement indicating how the proposed development fully complies with the comprehensive plan and a general description of the proposed development including:
 - a. The total acreage of the project.
 - b. The number of acres proposed to be developed in the various categories of land use shown on the concept plan; the percentage of total acreage represented by each category of use and each component of development; and an itemized list of uses proposed for each of the components which shall be the range of uses permitted for that section of the Type D development.

- c. The number and type of dwelling units proposed for the overall site and for its components, including dwelling units per acre calculations and population projections for each or for non-residential projects, gross square footage devoted for each land use.
 - d. The establishment of minimum design standards which shall govern the site development such as lot shape and size, internal streets and pedestrian ways, open space provisions, off-street parking, buffers, signage, and landscape areas.
 - e. A binding commitment to develop the property in accordance with the approved concept plan and conditions of approval. The commitment shall bind subsequent owners.
 - f. A site conditions map which includes:
 1. Legal description and boundary survey.
 2. Name of the Type D development; owner; subdivider/lessee/optionee (if applicable), and address and phone number of each; surveyor and engineer of record; and, date of drawing.
 3. Scale, date, north arrow, and general location map showing relationship of the site to external uses, structures and features.
 4. Boundaries of the subject property, all existing streets, buildings, water courses, easements, section lines, and other important physical features.
 5. Existing topography (latest U.S. Department of the Interior Geological Survey).
 6. The location and size of all existing drainage, water sewer, and other utility provisions.
 7. Information about the existing vegetative cover and general soil types, and their appropriateness to the proposed project.
 8. The location and function of all other existing public facilities which would serve the residents of the site including, but not limited to, schools, parks, and fire stations. The requirement to provide this information may be waived for small projects. If required, notation of this information on a scaled map is acceptable.
4. *Review requirements.* The county administrator or designee shall determine the level of detail required for the application for concept plan consideration requesting Type D review. At the option of the applicant, and upon submittal of necessary requirements for concept and final site and development plan application consistent with the applicable review procedure pursuant to this chapter, the Board of County Commissioners' action approving a plan for properties shall constitute a final approval and such projects shall not be subject to further review.
5. *Further review of individual development components of Type D development.* Once a conceptual plan for a Type D Development has been approved by the Board of County Commissioners, the approval of individual parcels, tracts, or projects within the Type D development shall utilize the applicable review procedure pursuant to this chapter to ensure compatibility with the concept plan as well as to meet all other appropriate technical requirements.
6. *Revocation of the concept plan.* An approved concept plan under the provisions of this chapter (except for developments of regional impact and Florida Quality Developments) shall be effective

for 60 months. If no building permit has been issued prior to the expiration of that time, the concept plan approval shall expire. Extensions may be granted by the county administrator or designee, provided that the concept plan is consistent with the comprehensive plan and meets the requirements of this chapter, for a period not to exceed six months upon a demonstration of continuing good faith effort to move the development toward completion.

(Ord. No. 96-02, § 14, 2-27-96; Ord. No. 97-10, § 8, 6-10-97; Ord. No. 99-15, § 34, 5-25-99; Ord. No. 00-19, § I, 6-15-00; Ord. No. 01-24, § 8, 10-30-01)

Sec. 10-1481. Site and development plan review process.

1. *Application.* Except for any exception or exemptions specified in this chapter, a site and development plan application is required for review Types A, B, C, and D site and development plans. Application submittal requirements for Types A, B, and C site and development plans are as set forth in section 10-1481, 3. (i). Application submittal requirements for Type D site and development plans are as set forth in section 10-1480, 3. The difference between the review types shall also be affected by the level of detail as determined by the county administrator or designee and technical assistance staff, which may be determined at the preapplication conference or quick check. The submittal requirements for site and development plan review are listed below. The county administrator or designee is authorized to waive or modify specific submittal requirements for any site and development plan proposal based on review type, site conditions, and characteristics of the proposed development. When site and development plan applications are to be submitted to the director of growth and environmental management or designee, the director of growth and environmental management or designee is also authorized to waive any specific submittal requirements as deemed appropriate.

2. The requirement for "planned development review" for development of properties abutting a designated canopy road segment shall mean compliance with the site and development plan regulations set forth in this chapter.

3. Submittal requirements.

- (a) An applicant shall provide for the preapplication meeting the required information on a form approved by the county administrator or designee.
- (b) The following information shall be required for a site and development plan application, unless the county administrator or designee waives a requirement, with documentation, as inapplicable to the particular development:
 - (i) A site and development plan for the parcel or parcels which are the subject of the application. A proposed plat, if the parcel or parcels are to be subdivided, and the depiction of the site and development plan, shall be prepared as a single map, if the information conveyed remains clear. The proposed plat and site and development plan shall include, consistent with the provisions of this section:
 - a. A title block containing the following:
 - 1. The proposed development.
 - 2. Date of preparation.
 - 3. Scale of the site and development plan, both written and graphic.
 - b. A legal description and boundary survey of the parcel which shall be signed and sealed by a professional surveyor licensed to practice in the state.
 - c. Tax identification number(s) for parcel or parcels that are subject of application.
 - d. Total acreage of the parcel or parcels, and, if the development is on a portion of a larger parcel, the acreage of the larger parcel and of the portion to be developed.
 - e. A scaled vicinity map with north arrow.

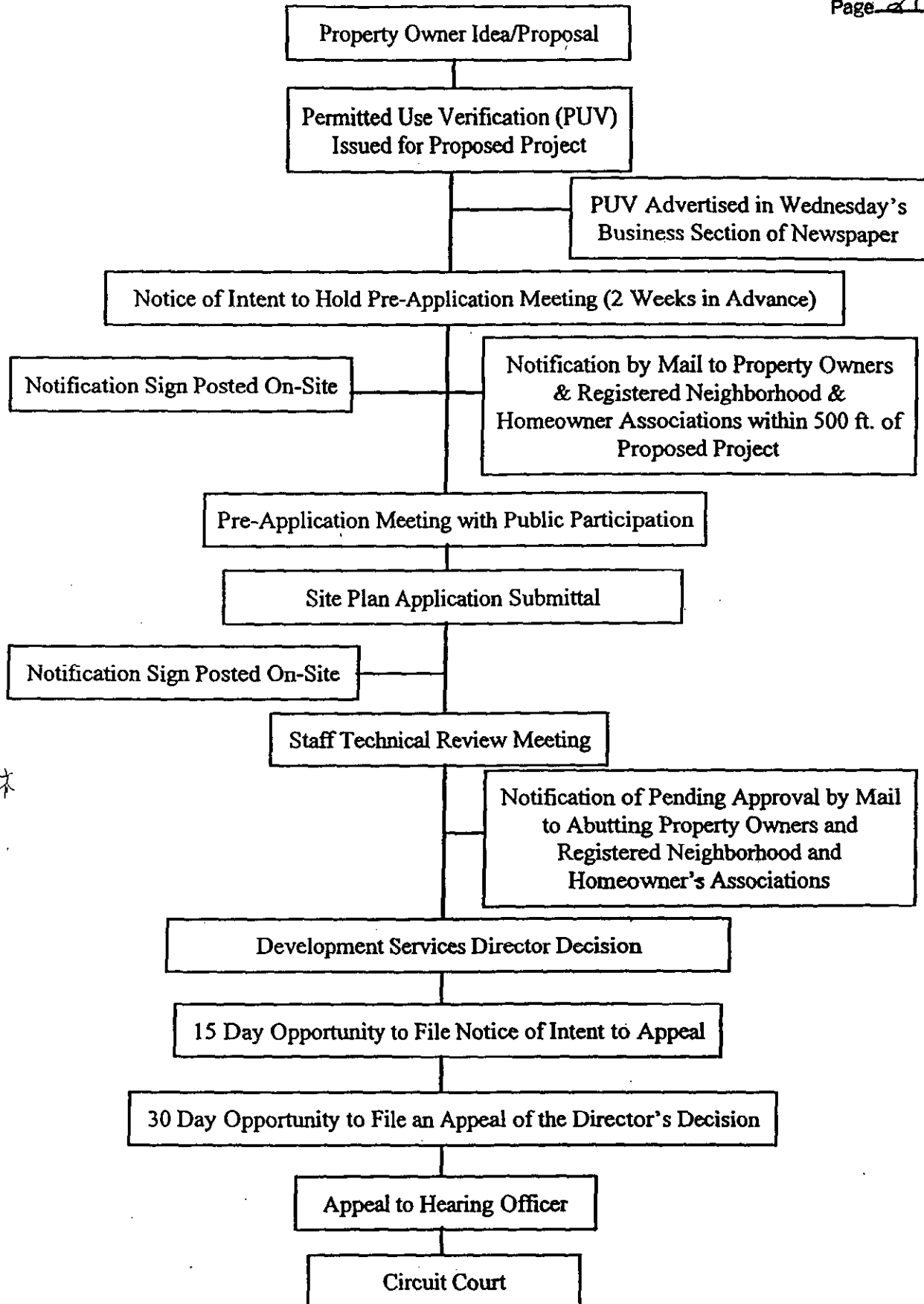
- f. Names, addresses, and telephone numbers of all owners of the parcel or parcels, developers, optionees, and agents.
- g. Location and type of proposed easements, including legal access.
- h. Dimensions of the lots, to the nearest foot.
- i. Lot and block numbers, if applicable. If a resubdivision of an existing plat is proposed, the numbering must be consistent with the existing system.
- j. A circulation diagram showing vehicular and pedestrian movements including location and dimensions of access points, sidewalks, any special engineering features and traffic control devices, if any.
- k. Proposed changes to existing topography.
- l. Location of stormwater management facilities, including all conveyances and drainage easements.
- m. Location and type of buffers and conservation easements to be provided.
- n. Number of spaces and location of parking facilities or other impervious surfaces. A calculation of the square footage of parking facilities and other impervious surfaces.
- o. Location and depth of setbacks. This information may be provided in tabular form.
- p. Location and use of temporary structures as defined in Section 10-1409.
- q. Location and generalized footprint of each building existing or to be constructed by the applicant. For non-residential structures, a calculation of the gross square footage for each, including floor area ratios and height of any structure proposed.
- r. Location and footprint of each type of infrastructure to be constructed.
- s. Areas to be protected by a conservation easement, preservation easement, or other means acceptable to the county.
- t. If the development fronts on a street or roadway, include each street or roadway and street or roadway name.
- u. Street plans, locations, designs, and names assigned in accordance with county regulations shall be depicted and described.
- v. If the applicant will construct them, location and description of all structures to be built by the developer, and, if common facilities are to be constructed, how those common facilities will be maintained.
- w. Location and type of recreation facilities.
- x. Refuse collection areas, and location and type of screening, if proposed.
- y. Where the site and development plan covers only a portion of the landowner's entire parcel, a map depicting all of the landowner's contiguous property and proposed use for the balance of the parcel or parcels not including in the site which is the subject of the application.
- z. Proposed build-out date of the infrastructure for the development in its entirety, and, if the development will be built in phases, a development scheduled and proposed buildout date for each phase.

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- aa. A utility service plan addressing proposed water supply, power supply, and method and location of sewage disposal.
- bb. All lot lines, parcel tax identification numbers, roads, access easements on the subject parcel, structures, and paved areas within 300 feet of the parcel boundaries.
- (ii) A site map depicting the existing natural and developed features on the parcel or parcels which are the subject of the application shall also be submitted. The information submitted shall include consistent with the provisions of this section:
 - a. Location of the wooded areas, differentiating between native forests, high quality successional forests, and mature successional forests.
 - b. Location of listed species, as defined by the EMA, occurrences, and their habitats.
 - c. For multifamily residential and all non-residential site plans, identify trees defined as protected by the EMA which are impacted by the proposed development.
 - d. Location of wetlands.
 - e. Conservation and preservation areas as set forth in the comprehensive plan.
 - f. Location of sinkholes.
 - g. Location of all water bodies, watercourses, drainage ditches, canals, and other surface water features.
 - h. Location and type of known hazardous materials, hazardous wasteland underground storage tanks.
 - i. Location of 100-year floodplain.
 - j. Location of other natural features.
 - k. A scaled aerial photograph showing the location of the site and adjacent properties within 300 feet of the site. The boundary of the subject property shall be outlined or highlighted on the aerial photograph.
 - l. A conceptual landscaping plan, including a planting plan for public right-of-way, common areas, and buffers or open space areas showing types, sizes, and spacing of trees and other vegetation.
 - m. Location of closed basins and natural drainage divides.
 - n. Proposed covenants, grants, easements, dedications, and restrictions to be imposed on the land, buildings, and/or structure, including proposed easements for public utilities and instruments relating to the use and maintenance of common natural areas, open spaces, private streets, and other private infrastructure shall be furnished with an application. All such documents shall be subject to review and approval by the county attorney as to form and sufficiency, prior to action on this application. Such instruments shall allow access of public vehicles for public safety or maintenance purposes.
- (iii) For nonresidential development, the applicant also shall provide the following information consistent with the provisions of this section:
 - a. Names and amounts of hazardous or toxic materials or wastes to be used or produced on-site.
 - b. Types and amounts of radioactive materials or wastes, explosives, or flammable materials to be used or produced on-site.

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- c. Types and amounts of smoke, dust, particulate matter, noxious or odorous gases or other pollution of the air produced on-site.
- d. Types and amounts of materials identified above in Subsections 10-1481.3.(b)(iii)(a), (b), and (c), above, which can be expected to be moved off-site.
- e. Noise levels expected at the site boundaries.
- f. The types of manufacturing, production, processing or other industrial activities which will take place.

(iv) Additional information as may be required by the county to clarify relevant points.

(Ord. No. 96-02, § 14, 2-27-96; Ord. No. 97-10, § 9, 6-10-97; Ord. No. 99-15, § 35, 5-25-99)

Sec. 10-1482. Site and development plan review criteria.

In deciding whether to approve, approve with conditions, or deny a site and development plan application, the county shall determine:

1. Whether the applicable zoning standards and requirements have been met.
2. Whether the applicable provisions of the Environmental Management Act have been met.
3. Whether the requirements of this chapter and other applicable regulations or ordinances which impose specific requirements on site and development plans and development have been met.

(Ord. No. 96-02, § 14, 2-27-96)

Sec. 10-1483. Application fees.

The Board of County Commissioners shall establish a schedule of application fees by resolution. Once established, the appropriate fee shall accompany the filing of an application pursuant

to this article or it shall be deemed incomplete, and the effective date of said application shall not be until said fee is actually received.
(Ord. No. 96-02, § 14, 2-27-96)

Sec. 10-1484. Effect of final approval, or approval with conditions, of an application.

1. Approval, or approval with conditions of an application for development does not authorize the applicant to proceed to sell lots or interest in the subject property. A final plat, when required, must be recorded before a developer may transfer title to lots within a subdivision. A development permit including a building permit, other than for construction of infrastructure or residential model homes consistent with this section, will not be issued until all infrastructure which is the responsibility of the applicant is in place or until a surety device, meeting the requirements of this article, has been posted.

2. Approval, or approval with conditions of an application for development shall authorize the applicant to contract for the sale of lots but without transfer of any legal interest in the land, and to construct infrastructure to support the development prior to the recordation of the final plat, subject to other approvals or permits required by the county.

3. A maximum of three residential model home permits per approved subdivision may be issued prior to the recordation of the final plat if the developer and builder enter into a development agreement with the county which specifies the conditions of such agreement.

4. The site and development plan approval, or approval with conditions, shall remain in effect until full development build-out and until transfer of ownership of all created lots, if applicable. However, the approval, or approval with conditions, shall expire if:

- (a) Substantial and observable development has not begun within two years of the date of approval; or,

Permitted Use Verification (PUV) Issued for Proposed Project

PUV Advertised in Wednesday's
Business Section of Newspaper

Notice of Intent to Hold Pre-Application Meeting (2 Weeks in Advance)

Notification Sign Posted On-Site

Notification by Mail to Property Owners and
Registered Neighborhood & Homeowner
Associations within 500 ft. of proposed project

Pre-Application Meeting with Public Participation

Site Plan Submittal

Notification Sign Posted On-Site

Staff Technical Review Meeting with Public Participation

Notice of Intent to Proceed to DRC (2 Weeks in Advance)

Notification Sign Posted On-Site

Notification by Mail to Property Owners
and Registered Neighborhood &
Homeowner Associations Within 500 ft.
of Proposed Project

Newspaper Advertisement of
DRC Meeting

DRC Meeting on Proposal

Approval

Denial

Appeal to Hearing Officer

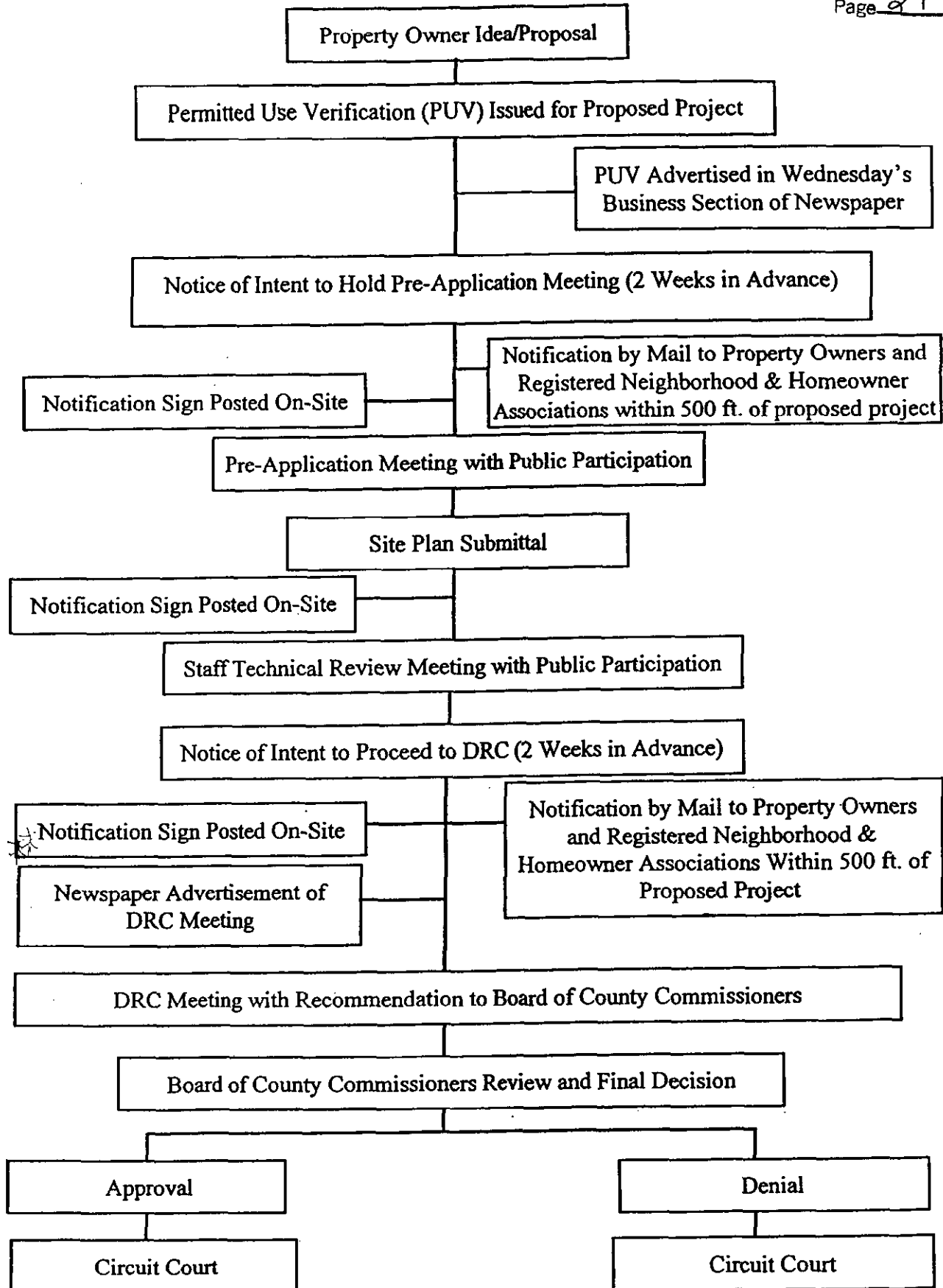
Appeal to Hearing Officer

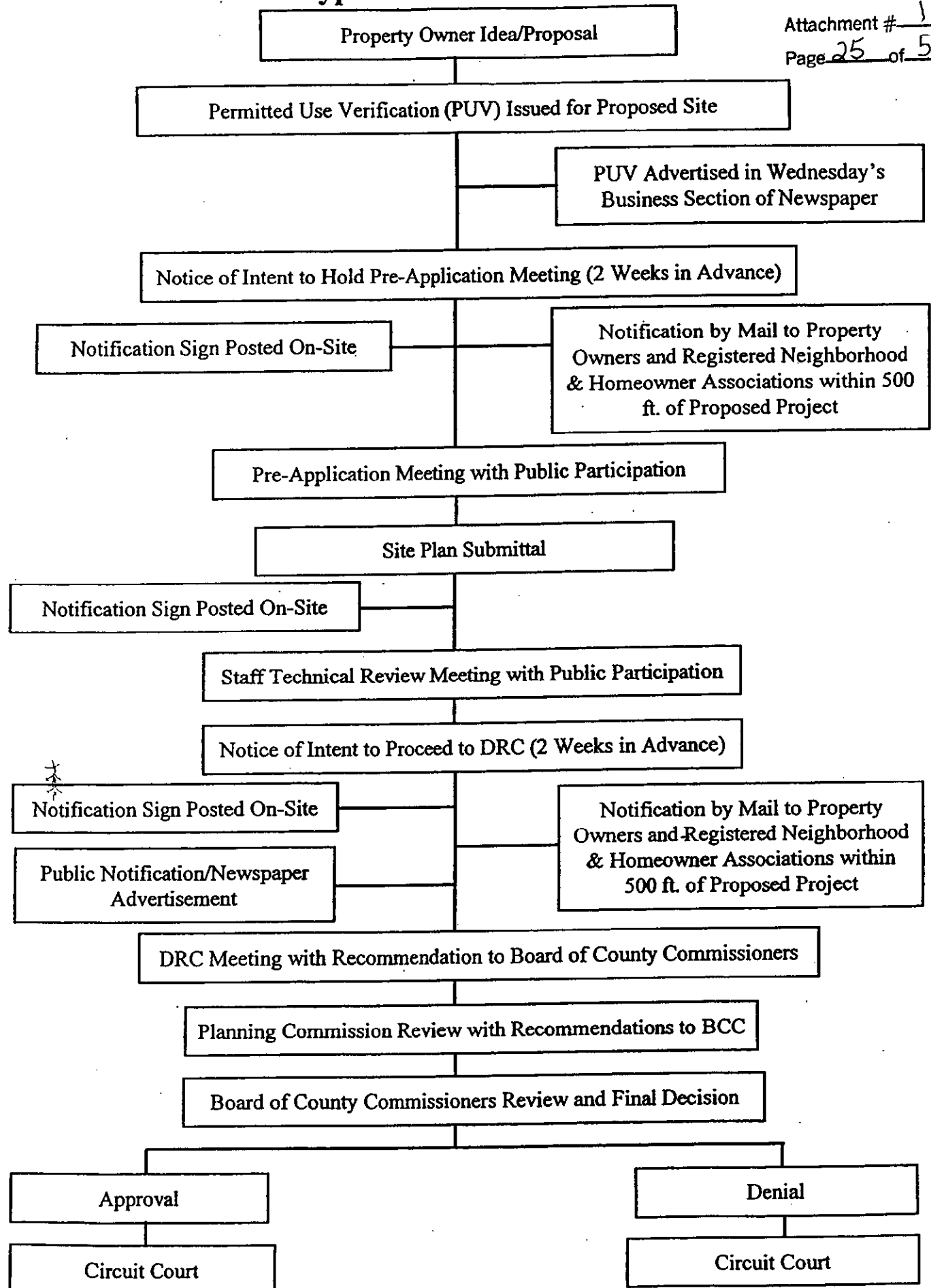
Circuit Court

Circuit Court

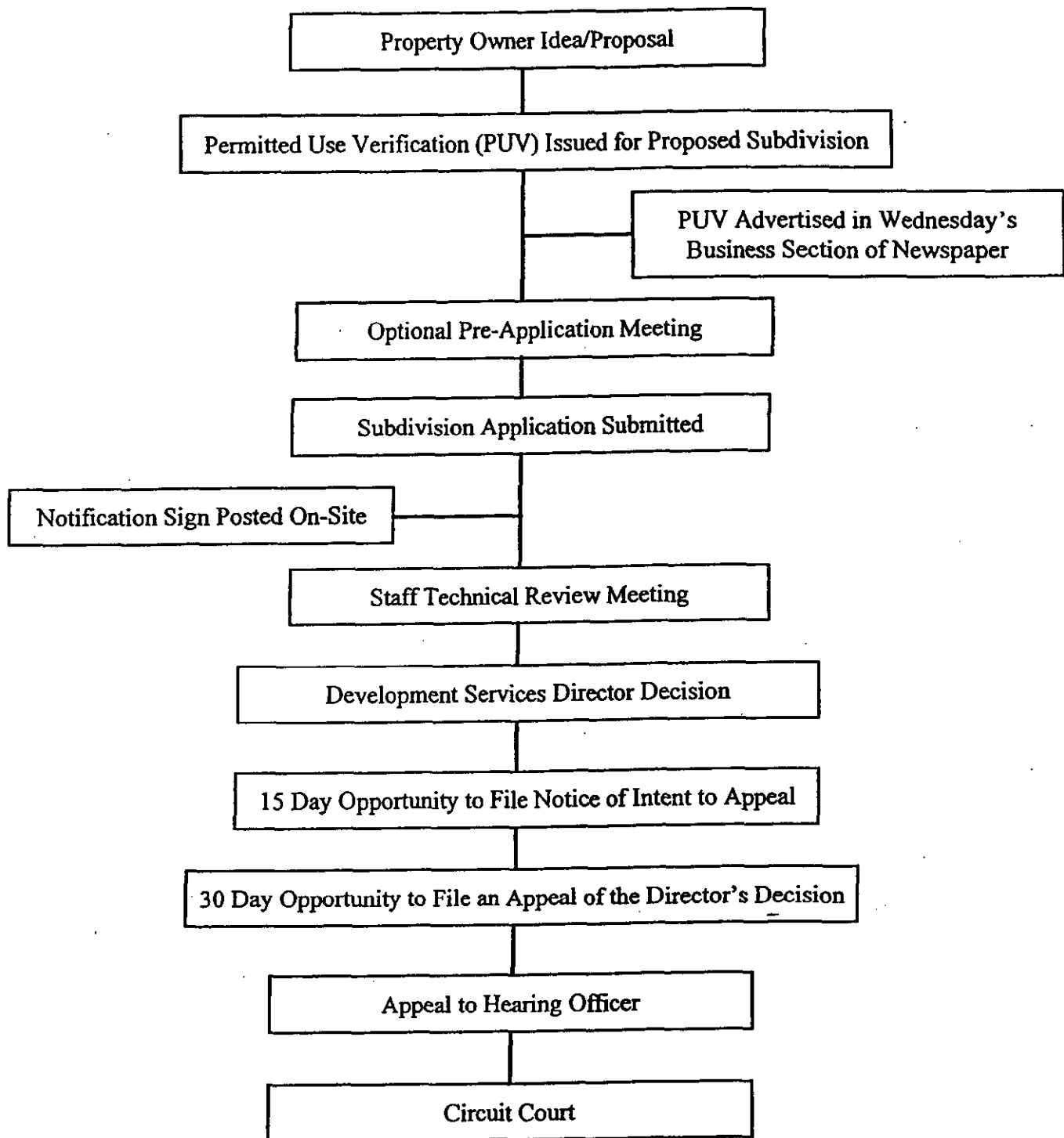
Type "C" Review Process

Attachment # 1
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Limited Partition Subdivision Review Process



Approved Projects

Year	LP	Type A	Type B	Type C	Type D	Total
1996	16	25	12	0	0	53
1997	19	23	12	0	0	54
1998	29	29	24	1	1	84
1999	16	21	16	4	1	58
2000	16	14	13	0	4	47
2001	9	23	41	1	0	74
2002 (Pending)	8 (43)	9 (44)	11 (28)	0 (5)	1 (6)	29 (126)
TOTAL	113	144	129	6	7	399

Type "A" Site and Development Plan Review Thresholds

ZONING DISTRICT(S)	THRESHOLDS
Residential Preservation, Lake Protection, RA, R-1, R-2, R-3, R-4, R-5, and OS	<ul style="list-style-type: none"> • Five to ten DUs (without subdivision) • Expansion of existing churches, schools and institutional facilities of 1,000 to 4,999 gross square footage (GSF). • 1,000 to 4,999 GSF in the Lake Protection District
Mixed Use-A, OR-1, OR-2, C-1, Urban Fringe, Lake Talquin Urban Fringe, or Rural	<ul style="list-style-type: none"> • Five to twenty DUs (without subdivision) • 1,000 to 10,000 GSF
OR-3, CM, MR-1, C-2, CP (except as noted in the Commercial Parkway Zoning District below), UP-1, UP-2, OA-1, M-1, IC, PUD, and DRI	<ul style="list-style-type: none"> • Five to 200 DUs (without subdivision) • 1,000 to 10,000 GSF
Activity Center	<ul style="list-style-type: none"> • Five to 400 DUs (without subdivision) • 1,000 to 100,000 GSF
Rural Community	<ul style="list-style-type: none"> • Five to ten DUs • 1,000 to 50,000 GSF
Industrial	<ul style="list-style-type: none"> • Development over 10,000, but less than 40,000 GSF, or 1,000 to 10,000 GSF if the extension of any infrastructure is required.
Commercial Parkway	<ul style="list-style-type: none"> • Redevelopment of sites, notwithstanding the square footage.
Mobile Home	<ul style="list-style-type: none"> • Expansion of an existing mobile home park.
All Zoning Districts	<ul style="list-style-type: none"> • Residential or non-residential site and development plans that result in a ten percent or greater increase of total onsite impervious area and that do not otherwise meet the conditions of Type "B", Type "C", or Type "D" site and development plans. • Changes in tenancy in existing structures that require substantial modification to the exterior of the structure or modification to the associated parking area and that do not otherwise meet the conditions of Type "B", Type "C", or Type "D" site and development plans. • Replacement of a communication tower, except in the Residential Preservation zoning district, within 50 feet of its current location for the purpose of collocation of additional antennas. The replacement tower must conform to the setback and height restrictions of Section 10-1115 of the Land Development Code to be processed as a Type "A" site and development plan.

Type "B" Site and Development Plan Review Thresholds

ZONING DISTRICT(S)	THRESHOLDS
Residential Preservation, Lake Protection, RA, R-1, R-2, R-3, R-4, R-5, and OS	<ul style="list-style-type: none"> 11 to 49 DUs Additions to or new construction of churches or schools or institutional facilities. Proposed site and development plans for the expansion of existing churches or schools or institutional facilities, or the construction of new churches, schools, or institutional facilities, containing 5,000 to 24,999 GSF. 5,000 to 24,999 gross square footage (GSF).
Mixed Use-A, OR-1, OR-2, C-1, Urban Fringe, Lake Talquin Urban Fringe, or Rural	<ul style="list-style-type: none"> 21 to 149 DUs 10,000 to 149,999 GSF
OR-3, CM, MR-1, C-2, undeveloped sites in CP, UP-1, UP-2, OA-1, IC, DRI, PUD, and M-1	<ul style="list-style-type: none"> 200 to 299 DUs 40,000 to 249,999 GSF
Activity Center	<ul style="list-style-type: none"> 400 to 499 DUs 100,000 to 499,999 GSF
Industrial	<ul style="list-style-type: none"> 40,000 to 249,999 GSF
Rural Community	<ul style="list-style-type: none"> 11 to 49 DUs 50,000 to 99,999 GSF
Mobile Home	<ul style="list-style-type: none"> New manufactured home parks.
All Zoning Districts	<ul style="list-style-type: none"> A residential or non-residential site and development plan in any zoning district which has unique location characteristics arising from proximity to existing or approved low density residential development, as determined by the County Administrator or designee, or which is proposed on a site with 40 or more percent coverage by conservation or preservation areas as defined by the Comprehensive Plan. Subdivisions of property requiring plat approval in any zoning district that does not otherwise qualify for Type "C" or Type "D" review. New communication towers, or the replacement of communication towers more than 50 feet from their existing location, which meet the setback and height requirements of Section 10-1115 of the Land Development Code. New or replacement communication towers in the Residential zoning district. All new or replacement towers in the Residential Preservation district must meet the setback and height requirements of Section 10-1115 of the Land Development Code.

Type "C" Site and Development Plan Review Thresholds

ZONING DISTRICT(S)	THRESHOLDS
Residential Preservation, Lake Protection, RA, R-1, R-2, R-3, R-4, R-5, and OS	<ul style="list-style-type: none"> • 50 or more DUs • Additions to or new construction of churches or schools or institutional facilities. Proposed site and development plans for the expansion of existing churches or schools or institutional facilities, or the construction of new churches, schools, or institutional facilities containing 25,000 or more GSF. • 25,000 or more GSF
Mixed Use-A, OR-1, OR-2, C-1, Urban Fringe, Lake Talquin Urban Fringe, or Rural	<ul style="list-style-type: none"> • 150 or more DUs • Non-residential site and development plans containing 150,000 or more GSF.
IC, OR-3, CM, MR-1, C-2, undeveloped sites in CP, UP-1, UP-2, OA-1, DRI, PUD, and M-1	<ul style="list-style-type: none"> • 300 or more DUs • 250,000 or more GSF
Activity Center	<ul style="list-style-type: none"> • 500 or more DUs • 500,000 or more GSF
Industrial	<ul style="list-style-type: none"> • 250,000 or more GSF
Rural Community	<ul style="list-style-type: none"> • 50 or more DUs • 100,000 or more GSF

*

Type "D" Site and Development Plan Thresholds

- Developments of Regional Impact
- Florida Quality Developments
- Transitional Residential Facilities
- Planned Unit Developments
- Creation of Historic Preservation or Canopy Road Special Regulatory Overlays
- All development proposals within the Interchange Commercial Zoning District


BOARD OF COUNTY COMMISSIONERS

Workshop Materials

Date of Workshop: September 17, 2002

Date Submitted: September 12, 2002

To: Honorable Chairman and Members
of the Board of County Commissioners

From: Herbert W.A. Thiele, Esq. 
County Attorney

Subject: Workshop on Optional Quasi-Judicial Process for Development Approvals

Statement of Issue:

Conduct Workshop on Optional Quasi-Judicial Process for Development Approvals

Background:

At its meeting of July 9, 2002, the Board of County Commissioners scheduled a workshop to be held on September 17, 2002, on an optional special master or quasi-judicial process which may be implemented for County decisions on development order applications. During the 2002 Legislative Session, the Legislature changed the Growth Management Act, including the processes by which local government development orders are challenged. The law now includes an optional special master or quasi-judicial process, which if adopted by a local government, affords more deference to the local government's decision if that decision is challenged. This new optional process was first brought to the attention of the Board by our office through a memorandum dated May 14, 2002, which is attached as Attachment #1 and includes an excerpt from the Senate Bill. A second memorandum from our office, dated July 9, 2002, summarizes the optional special master process in more detail (Attachment #2, p. 4-5).

To summarize, the new law provides a unique process with specific criteria by which local governments may process applications for development orders. The process requires the following procedures:

- Uniform notice by either mail or publication of each application for permit or other development approval within 10 days of application;
- Notice of appeal rights in publication or mail notice and posting at the job site;

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September 17, 2002
Page 2

- A notice of intent of the local government's decision prior to finalizing the decision, this triggers the opportunity to request the quasi-judicial hearing before a special master;
- Discovery prior to the special master hearing, including disclosure of witness lists and exhibits and an opportunity to depose witnesses;
- Public testimony allowed at the formal hearing;
- Formal hearing before a special master, who is an attorney with 5 years experience, who renders a recommended order;
- Prohibition of *ex parte* communications (communications between the decision maker and the party or parties outside of the formal hearing).

If the special master process is implemented, the sole appeal method for either the developer/applicant or an affected third party, is by certiorari review, which is limited to a review of the record created during the special master process to determine whether the local government's decision is supported by competent, substantial evidence. If the special master process is not adopted, then both the developer/applicant and an affected third party, may challenge the local government's decision in a *de novo* hearing in circuit court. A *de novo* action is a full evidentiary hearing wherein the local government's action is not afforded any deference, but the issue is heard as if for the first time. Prior to these revisions in the law, the remedy for the developer/applicant was by certiorari review, while the remedy for an affected third party was a *de novo* hearing.

Analysis:

Should the Board adopt the optional special master process, it would benefit from the greater deference afforded its development order decisions when challenged by either the developer/applicant or an affected third party. Applicants and the public would benefit from a standardized process and a clear point of entry into the local government decision, rather than waiting until the decision is final and challenging that decision in a circuit court proceeding.

Another advantage to implementing the optional quasi-judicial process is to avoid protracted circuit court litigation by providing the special master process in the first place. Under the new law, a party who is dissatisfied with the local government's decision expressed in its notice of intent, is afforded an opportunity to change the local government's decision in a less formal, less expensive and quicker proceeding than a *de novo* hearing would provide. Further, it is important to note that no development application would be required to undergo the special master process, only those which are contemplating challenge of the local government's decision as expressed in its notice of intent.

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The decision making process in for Limited Partitions and Type A and B site plan reviews is currently similar to the optional special master process. In those cases, the decision of either the staff or the DRC does not become final if a party timely files a request for a hearing before a hearing officer. Some minor changes would need to be made to the existing hearing procedures to bring them under the new law. The advantage to the County would be that an appeal taken from the special master decision would be a certiorari review, rather than a de novo hearing in circuit court. Decisions of other Leon County agencies follow this model as well. For example, Animal Control provides an opportunity for a hearing before a three-member classification committee if the dog owner is dissatisfied with the Division's initial determination of a dog as dangerous, prior to finalizing that determination.

It is also important to note that under the new legislation, the local government may choose whether to offer the special master process as an option for all or only certain types of development orders, and may revisit that decision to add or delete the types of development orders to which it applies. For example, in the workshop materials on levels of review, staff highlights that of the nearly 400 development projects approved in Leon County since 1996, the five which have been appealed were Type B development reviews. Based on that information, the County may choose to provide the special master process for Type B development reviews and could later expand the ordinance to offer the process for Types A through D. The optional process is available for all types of development orders, including zoning decisions, subdivision approvals, certifications, variances and special exceptions.

Disadvantages of implementing the special master process are lengthening the process for the County to get to a final decision on the development application, as well as increasing costs if many special master hearings are requested. Both the amount of time added to the decision making process and the cost increases depends upon which types of development orders the County chose to make the special master process available under. For example, as discussed above, certain types of development approvals already include a time frame for requesting a hearing officer proceeding. The quasi-judicial proceeding may take more time since formal discovery is conducted prior to the hearing. Although no party is required to be represented by an attorney in the special master process, the formality of the hearings, as compared to the County's existing process, may lead to increased time and costs.

If the Board chooses to implement the optional special master process, revisions to the County's land development code are required. In the workshop materials on levels of development review, staff has summarized the different procedures applicable to Type A through D review. It is important to note that the current available remedy for appealing those decisions also varies. Limited partition, Type A and Type B reviews are subject to review first by a hearing officer, then appealed to a circuit court (which under the new law is a de novo proceeding). Type C review provides an appeal to the circuit court of the Board's decision, and Type D currently allows the applicant to invoke a quasi-judicial proceeding through the planning commission prior

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to appealing the Board's final decision to circuit court. In each case, the circuit court proceeding is a full evidentiary hearing under the new law, unless the Board chooses to implement the special master process.

The extent of revisions needed to the land development code depends upon which types of development approvals the Board decides to subject to the new process. In the case of Limited partitions, as well as Type A and Type B reviews, the existing process would have to be revised to convert the existing hearing officer proceeding to a special master process complying with the new legislation, and to provide for issuance of a notice of intent by the decision maker (staff or DRC) with an opportunity to invoke the special master process. For Type C, the process would have to be revised to create a notice of intent of the Board's decision with an opportunity to invoke the same special master process. In the case of Type D reviews, the existing planning commission quasi-judicial process would need to be revised to comply with the statutory requirements. Amendments to the Planning Commission's bylaws to implement these changes are already being drafted and may soon be presented to the Commission by its counsel. The proposed revisions to the Planning Commission's bylaws would bring its quasi-judicial proceedings in line with the special master process under the statute for all development decisions over which the Planning Commission has the final approval authority. However, the process would have to be further refined for the County since on Type D reviews, the Planning Commission only makes recommendations to the Board of County Commissioners, rather than issuing the final decision.

Options:

1. Direct staff to draft a proposed ordinance implementing the special master process on specific types of development orders for Board consideration at a future Commission meeting.
2. Do not direct staff to draft a proposed ordinance implementing the special master process on specific types of development orders for Board consideration at a future Commission meeting.
3. Board direction.

Recommendation:

Option #3.


Attachments:

- #1 Memorandum to the Board dated May 14, 2002
- #2 Memorandum to the Board dated July 9, 2002.

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

To: Honorable Chairman and Members of the Board of County Commissioners
Parwez Alam, County Administrator
Gary Johnson, Director of Community Development

From: Herbert W.A. Thiele, Esq. 
County Attorney

Date: May 14, 2002

Subject: CS/SB's 1906 & 550 - Revisions to the Local Government Comprehensive
Planning and Land Development Act of 1985

Attached for your information and review is an "Update" prepared by our office on a bill that was recently adopted by the Florida Legislature. The enclosed Update was presented last week at the City, County and Local Government Law Certification Review Course held in Sarasota, Florida. The subject bill (CS/SB's 1906 & 550) revised Part II of Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Act of 1985), and will authorize a local government to establish a "special master process" for quasi-judicial proceedings associated with challenges to development orders.

Should you have any questions regarding this matter, please contact the County Attorney's Office.

Encl.

**** UPDATE: A NEW OPTION, THE SPECIAL MASTER PROCESS ****

CITY, COUNTY AND LOCAL GOVERNMENT LAW
CERTIFICATION REVIEW COURSE
SARASOTA, FLORIDA
MAY 9, 2002

Herbert W. A. Thiele, Esq.
County Attorney
Leon County, Florida

In late March of 2002, the Florida Legislature adopted CS/SB's 1906 & 550, which forged a number of changes to Part II of Chapter 163, Florida Statutes (the Local Government Comprehensive Planning and Land Development Act of 1985). As of May 3, 2002, this bill has not been sent to the Governor, but the Governor has indicated in major newspapers that he supports the bill. Attached hereto is a copy of the pertinent sections of the bill that are reviewed below.

Notably, Section 163.3215, Florida Statutes, as revised by CS/SB's 1906 & 550, will authorize a local government to establish a "special master process" to address quasi-judicial proceedings associated with development order challenges. If a local government establishes this special master process, then the sole method by which an aggrieved and adversely affected party may challenge a decision of a local government granting or denying an application for a development order (as defined in Section 163.3164, F.S.), which materially alters the use or density or intensity of use on a particular piece of property, is by a petition for writ of certiorari filed in the circuit court. The petition for writ of certiorari must be filed in circuit court no later than 30 days following rendition of a development order or other written decision of the local government, or when all local administrative appeals have been exhausted, whichever occurs later. Under the special master process, owners, developers and applicants are provided the same methods available to third parties to appeal and challenge the consistency of a development order with a local comprehensive plan.

CS/SB's 1906 & 550 set forth the minimum components of the "special master process," including, in part, as follows:

- (a) Notice provisions;
- (b) A "clear point of entry" consisting of a written preliminary decision, with the time to request a quasi-judicial hearing running from the issuance of the written preliminary decision (note, however, that the local government is not bound by the preliminary decision);

- (c) An opportunity for participation in the process by an aggrieved or adversely affected party;
- (d) An opportunity for the disclosure of witnesses and exhibits prior to the hearing, and an opportunity for depositions of witnesses;
- (e) A quasi-judicial hearing before an impartial special master who is an attorney with at least 5 years' experience; and
- (f) An opportunity by all parties to present arguments and evidence (including public testimony), conduct cross-examination, and submit rebuttal evidence.

Furthermore, the local government's "special master process" may not require a party to be represented by an attorney in order to participate in the hearing. "Strict scrutiny" shall be the standard of review to be applied by the special master, and the local government is bound by the special master's findings of fact, unless said findings are not supported by competent substantial evidence. The governing body may, however, modify the conclusions of law if it finds that the special master's application or interpretation of the law is erroneous. Finally, the local government's final decision must be reduced to writing, including findings of fact and conclusions of law.

If the special master process is not adopted by a local government, then the developer or third party may bring a de novo action to challenge the local government's decision. This is in contrast to the system afforded prior to the bill's adoption, which had a developer challenging the decision by a writ of certiorari, and a third party challenging the decision by a de novo action. The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals are exhausted, whichever occurs later.

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2002 Legislature

CS for SB's 1906 & 550, 2nd Engrossed

1 163.3215 Standing to enforce local comprehensive plans
2 through development orders.--
3 (1) Subsections (3) and (4) provide the exclusive
4 methods for an aggrieved or adversely affected party to appeal
5 and challenge the consistency of a development order with a
6 comprehensive plan adopted under this part. The local
7 government that issues the development order is to be named as
8 a respondent in all proceedings under this section. Subsection
9 (3) shall not apply to development orders for which a local
10 government has established a process consistent with the
11 requirements of subsection (4). A local government may decide
12 which types of development orders will proceed under
13 subsection (4). Subsection (3) shall apply to all other
14 development orders that are not subject to subsection (4).
15 (2) As used in this section, the term "aggrieved or
16 adversely affected party" means any person or local government
17 that will suffer an adverse effect to an interest protected or
18 furthered by the local government comprehensive plan,
19 including interests related to health and safety, police and
20 fire protection service systems, densities or intensities of
21 development, transportation facilities, health care
22 facilities, equipment or services, and environmental or
23 natural resources. The alleged adverse interest may be shared
24 in common with other members of the community at large but
25 must exceed in degree the general interest in community good
26 shared by all persons. The term includes the owner, developer,
27 or applicant for a development order.
28 (3) ~~Any~~ Any aggrieved or adversely affected party may
29 maintain a de novo an action for declaratory, injunctive, or
30 other relief against any local government to challenge any
31 decision of such local government granting or denying an

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1 application for, or to prevent such local government from
2 taking any action on, a development order, as defined in s.
3 163.3164, which materially alters the use or density or
4 intensity of use on a particular piece of property which that
5 is not consistent with the comprehensive plan adopted under
6 this part. The de novo action must be filed no later than 30
7 days following rendition of a development order or other
8 written decision, or when all local administrative appeals, if
9 any, are exhausted, whichever occurs later.

10 ~~(2) "Aggrieved or adversely affected party" means any~~
11 ~~person or local government which will suffer an adverse effect~~
12 ~~to an interest protected or furthered by the local government~~
13 ~~comprehensive plan, including interests related to health and~~
14 ~~safety, police and fire protection service systems, densities~~
15 ~~or intensities of development, transportation facilities,~~
16 ~~health care facilities, equipment or services, or~~
17 ~~environmental or natural resources. The alleged adverse~~
18 ~~interest may be shared in common with other members of the~~
19 ~~community at large, but shall exceed in degree the general~~
20 ~~interest in community good shared by all persons.~~

21 ~~(3)(a) No suit may be maintained under this section~~
22 ~~challenging the approval or denial of a zoning, rezoning,~~
23 ~~planned unit development, variance, special exception,~~
24 ~~conditional use, or other development order granted prior to~~
25 ~~October 1, 1985, or applied for prior to July 1, 1985.~~

26 ~~(b) Suit under this section shall be the sole action~~
27 ~~available to challenge the consistency of a development order~~
28 ~~with a comprehensive plan adopted under this part.~~

29 (4) If a local government elects to adopt or has
30 adopted an ordinance establishing, at a minimum, the
31 requirements listed in this subsection, the sole method by

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1 which an aggrieved and adversely affected party may challenge
2 any decision of local government granting or denying an
3 application for a development order, as defined in s.
4 163.3164, which materially alters the use or density or
5 intensity of use on a particular piece of property, on the
6 basis that it is not consistent with the comprehensive plan
7 adopted under this part, is by an appeal filed by a petition
8 for writ of certiorari filed in circuit court no later than 30
9 days following rendition of a development order or other
10 written decision of the local government, or when all local
11 administrative appeals, if any, are exhausted, whichever
12 occurs later. An action for injunctive or other relief may be
13 joined with the petition for certiorari. Principles of
14 judicial or administrative res judicata and collateral
15 estoppel apply to these proceedings. Minimum components of the
16 local process are as follows:

17 (a) The local process must make provision for notice
18 of an application for a development order that materially
19 alters the use or density or intensity of use on a particular
20 piece of property, including notice by publication or mailed
21 notice consistent with the provisions of s. 166.041(3)(c)2.b.
22 and c. and s. 125.66(4)(b)2. and 3., and must require
23 prominent posting at the job site. The notice must be given
24 within 10 days after the filing of an application for
25 development order; however, notice under this subsection is
26 not required for an application for a building permit or any
27 other official action of local government which does not
28 materially alter the use or density or intensity of use on a
29 particular piece of property. The notice must clearly
30 delineate that an aggrieved or adversely affected person has
31 the right to request a quasi-judicial hearing before the local

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1 government for which the application is made, must explain the
2 conditions precedent to the appeal of any development order
3 ultimately rendered upon the application, and must specify the
4 location where written procedures can be obtained that
5 describe the process, including how to initiate the
6 quasi-judicial process, the timeframes for initiating the
7 process, and the location of the hearing. The process may
8 include an opportunity for an alternative dispute resolution.
9 (b) The local process must provide a clear point of
10 entry consisting of a written preliminary decision, at a time
11 and in a manner to be established in the local ordinance, with
12 the time to request a quasi-judicial hearing running from the
13 issuance of the written preliminary decision; the local
14 government, however, is not bound by the preliminary decision.
15 A party may request a hearing to challenge or support a
16 preliminary decision.
17 (c) The local process must provide an opportunity for
18 participation in the process by an aggrieved or adversely
19 affected party, allowing a reasonable time for the party to
20 prepare and present a case for the quasi-judicial hearing.
21 (d) The local process must provide, at a minimum, an
22 opportunity for the disclosure of witnesses and exhibits prior
23 to hearing and an opportunity for the depositions of witnesses
24 to be taken.
25 (e) The local process may not require that a party be
26 represented by an attorney in order to participate in a
27 hearing.
28 (f) The local process must provide for a
29 quasi-judicial hearing before an impartial special master who
30 is an attorney who has at least 5 years' experience and who
31 shall, at the conclusion of the hearing, recommend written

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1 findings of fact and conclusions of law. The special master
2 shall have the power to swear witnesses and take their
3 testimony under oath, to issue subpoenas and other orders
4 regarding the conduct of the proceedings, and to compel entry
5 upon the land. The standard of review applied by the special
6 master in determining whether a proposed development order is
7 consistent with the comprehensive plan shall be strict
8 scrutiny in accordance with Florida law.

9 (g) At the quasi-judicial hearing, all parties must
10 have the opportunity to respond, to present evidence and
11 argument on all issues involved which are related to the
12 development order, and to conduct cross-examination and submit
13 rebuttal evidence. Public testimony must be allowed.

14 (h) The local process must provide for a duly noticed
15 public hearing before the local government at which public
16 testimony is allowed. At the quasi-judicial hearing, the local
17 government is bound by the special master's findings of fact
18 unless the findings of fact are not supported by competent
19 substantial evidence. The governing body may modify the
20 conclusions of law if it finds that the special master's
21 application or interpretation of law is erroneous. The
22 governing body may make reasonable legal interpretations of
23 its comprehensive plan and land development regulations
24 without regard to whether the special master's interpretation
25 is labeled as a finding of fact or a conclusion of law. The
26 local government's final decision must be reduced to writing,
27 including the findings of fact and conclusions of law, and is
28 not considered rendered or final until officially date-stamped
29 by the city or county clerk.

30 (i) An ex parte communication relating to the merits
31 of the matter under review may not be made to the special

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1 master. An ex parte communication relating to the merits of
2 the matter under review may not be made to the governing body
3 after a time to be established by the local ordinance, which
4 time must be no later than receipt of the special master's
5 recommended order by the governing body.

6 (j) At the option of the local government, the process
7 may require actions to challenge the consistency of a
8 development order with land development regulations to be
9 brought in the same proceeding.

10 ~~(4) As a condition precedent to the institution of an~~
11 ~~action pursuant to this section, the complaining party shall~~
12 ~~first file a verified complaint with the local government~~
13 ~~whose actions are complained of setting forth the facts upon~~
14 ~~which the complaint is based and the relief sought by the~~
15 ~~complaining party. The verified complaint shall be filed no~~
16 ~~later than 30 days after the alleged inconsistent action has~~
17 ~~been taken. The local government receiving the complaint~~
18 ~~shall respond within 30 days after receipt of the complaint.~~
19 ~~Thereafter, the complaining party may institute the action~~
20 ~~authorized in this section. However, the action shall be~~
21 ~~instituted no later than 30 days after the expiration of the~~
22 ~~30-day period which the local government has to take~~
23 ~~appropriate action. Failure to comply with this subsection~~
24 ~~shall not bar an action for a temporary restraining order to~~
25 ~~prevent immediate and irreparable harm from the actions~~
26 ~~complained of.~~

27 (5) Venue in any cases brought under this section
28 shall lie in the county or counties where the actions or
29 inactions giving rise to the cause of action are alleged to
30 have occurred.
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1 (6) The signature of an attorney or party constitutes
2 a certificate that he or she has read the pleading, motion, or
3 other paper and that, to the best of his or her knowledge,
4 information, and belief formed after reasonable inquiry, it is
5 not interposed for any improper purpose, such as to harass or
6 to cause unnecessary delay or for economic advantage,
7 competitive reasons or frivolous purposes or needless increase
8 in the cost of litigation. If a pleading, motion, or other
9 paper is signed in violation of these requirements, the court,
10 upon motion or its own initiative, shall impose upon the
11 person who signed it, a represented party, or both, an
12 appropriate sanction, which may include an order to pay to the
13 other party or parties the amount of reasonable expenses
14 incurred because of the filing of the pleading, motion, or
15 other paper, including a reasonable attorney's fee.

16 (7) In any proceeding action under subsection (3) or
17 subsection (4) ~~this section~~, no settlement shall be entered
18 into by the local government unless the terms of the
19 settlement have been the subject of a public hearing after
20 notice as required by this part.

21 (8) In any proceeding suit under subsection (3) or
22 subsection (4) ~~this section~~, the Department of Legal Affairs
23 may intervene to represent the interests of the state.


24 (9) Neither subsection (3) nor subsection (4) relieves
25 the local government of its obligations to hold public
26 hearings as required by law.

27 Section 11. Section 163.3246, Florida Statutes, is
28 created to read:

29 163.3246 Local government comprehensive planning
30 certification program.--
31

BOARD OF COUNTY COMMISSIONERS
Inter-Office Memorandum

To: Honorable Chairman and Members of the Board of County Commissioners
Parwez Alam, County Administrator
Gary Johnson, Director of Community Development

From: Suzanne H. Schmith, Esq. 
Assistant County Attorney

Date: July 9, 2002

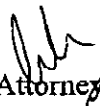

Subject: Summary of 2002 Growth Management Legislation - SB 1906

Attached for your information is a summary of the changes relating to growth management, which were made by the 2002 Florida Legislature.

If you have any questions, please contact the County Attorney's Office.

MEMORANDUM

TO: Wendy Grey, Planning Director
Tallahassee-Leon County Planning Department

FROM: Linda Hurst, Assistant City Attorney 
Suzanne H. Schmith, Assistant County Attorney 

RE: Summary of 2002 Growth Management Legislation - SB 1906

DATE: July 8, 2002

The 2002 Florida Legislature passed comprehensive changes to the 1985 Local Government Comprehensive Planning Act and several related statutes. On May 31, 2002, Governor Bush signed the legislation into law. The legislation addresses coordinated school planning, improved water supply planning, changes to the process for judicial review of local land use decisions, new school financing, and several changes designed to improve both the quality of land use planning and the procedural aspects of both comprehensive planning and development of regional impact review.

This memorandum summarizes the legislation, and addresses the City and County's responsibilities related to the changes. It was prepared jointly by the City Attorney's Office and the County Attorney's Office.

Water Supply Planning

To improve coordination between local governments and water management districts related to new development in the face of diminishing water supplies, the Legislature hopes to improve integration of land use and water supply planning in the State. Section 163.3177(4)(a), F.S.,¹ was amended to require coordination of the Tallahassee-Leon County Comprehensive Plan (Comprehensive Plan) with the Northwest Florida Water Management District's (NFWFMD) regional water supply plan.² Necessary amendments to the Comprehensive Plan must be completed by January 1, 2005.

To accomplish this legislative mandate, the Utilities Element in the Comprehensive Plan must be amended to provide a workplan for a 10-year planning period for building water supply facilities identified in the element as necessary to serve existing and new development and for which the City and County are responsible. Also,

¹This section designates the various elements required for comprehensive plans.

² The water supply plans are approved under section 373.0361, F.S. The NFWFMD has no water supply plan for the region in which Leon County is located.

the Conservation Element must be amended to require that the assessment of water needs and sources take into consideration the regional water supply plan.³

Section 163.3191(2), F.S., which sets forth the components of the EAR, was amended to implement the changes mentioned above. Prior to January 1, 2005, it is anticipated that the Department of Community Affairs and the NFWFMD will provide technical assistance to help local governments meet the requirements of this legislation.

Reuse of Reclaimed Water

Section 403.064(1), F.S., titled "Reuse of Reclaimed Water," was amended to declare that reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems. The legislation added subsection (3) requiring applicants for construction or operation of domestic wastewater treatment facilities in water resource caution areas to prepare a reuse feasibility study. Leon County is currently not within a water resource caution area, so this portion of SB 1906 is not expected to have any local effect.

Groundwater Information Program

Section 38 of SB 1906 requires the water management districts to develop an information program by December 31, 2002, on existing hydrologic conditions of major surface and groundwater sources in the state and suggestions for good conservation practices in those areas. The information is required to be distributed by the water management districts to the Legislature and areas within the respective geographic areas.

Developments of Regional Impact⁴

SB1906 makes a number of changes to the Development of Regional Impact (DRI) review process. The DRI regulatory scheme was based on presumptions. Whether you had to undergo review depended on the size of the project, but projects could fall under certain favorable or negative presumptions. A project might be presumed to not be subject to review or to be subject to review, leaving the applicant or the agency to prove otherwise.

Under SB 1906, a development that is at or below 100% of a statutory standard will not be required to undergo DRI review. Before the change, a development in this category could have been deemed to be a DRI. A development that is at or above 120% of the standard will still be required to undergo review. The presumptive threshold between 80 and 100% of a category was deleted, as was the right to require a binding letter for that threshold. The only remaining presumptive threshold is 100% or between

³ See footnote 2; if there is no approved regional water supply plan, the Comprehensive Plan must consider the NFWFMD's district water management plan approved under section 373.036(2), F.S.

⁴ This summary is derived in large part from a memorandum prepared by Silvia Alderman, attorney to the Tallahassee-Leon County Planning Commission, dated March 27, 2002.

100% and 120%. Projects that fall within that band will continue to be presumed to require review, subject to proof to the contrary by the developer.

Projects within multiple regional planning councils will see the Department of Community Affairs designating a lead council to prepare the regional report. Biennial reports will not be required of developers instead of annual reports unless the development order requires more frequent reporting. These may be amended to provide for biennial reports.

Changes were also made to substantial deviation thresholds and presumptions. Exemptions were added, particularly related to water ports or marinas and renovation and redevelopment that does not change land use or increase density or intensity of use.

The 30 acre standard for office development was deleted. The 40 acre standard for retail developments was also deleted. Projects that have development orders that now would not have to undergo review will be entitled to keep their development orders and develop according to them unless they prefer to abandon the development order according to a procedure established in SB 1906.

Airport Developments of Regional Impact

In a different bill, CS/HB 261, the Legislature amended section 163.3177, F.S., adding paragraph (k), which states that a local government with jurisdiction over a licensed publicly owned and operated airport may amend its comprehensive plan to include an airport master plan. The legislation outlines requirements for the comprehensive plan amendment, such as land use compatibility, consistency with the transportation circulation element, airport-related development, etc. Any development or expansion of an airport consistent with the adopted airport master plan that has been incorporated into the Comprehensive Plan will no longer require DRI review.

Judicial Review of Local Development Orders

Section 10 of SB 1906 amends section 163.3215, F.S., related to challenges to the consistency of local development orders with the Comprehensive Plan. In summary, it allows a local government to establish a special master process according to guidelines in the legislation. The guidelines include the following:

- 1) Notice of appeal rights by publication or mail, and posting at the job site;
- 2) Notice of the application within 10 days after filing;
- 3) Disclosure of witness lists and exhibits and opportunity for deposition of witnesses;
- 4) Formal hearing before a special master who would render a recommended order;
- 5) Public testimony at the formal hearing;

- 6) Findings of fact that are supported by competent, substantial evidence may not be disturbed by the local government; and
- 7) Prohibition of *ex parte* communications.

If a special master process is established, it will be the only method for challenging a development order for consistency with the comprehensive plan. It also limits court review to certiorari review, a review on the record created in the special master process. In a certiorari proceeding, the local government's decision is accorded greater deference. If the local government does not adopt the special master process, court review is *de novo*, and the court reviews the action as though the local government had not previously reviewed it and created a record.

Both Leon County and the City have appeal procedures in place with many of the procedures already in place that are required for the special master process. To take advantage of the opportunity to limit court review to certiorari review, minor changes to the land development regulations will be proposed by staff in the near future to bring our local procedures into full compliance with the new legislation. It is expected that these changes would make future litigation under section 163.3215, F.S., less time consuming and costly for the City and County, but it may add time to the review process, and make the administrative appeals more formal and perhaps, more costly.

Comprehensive Plan/Amendment Processes

Concurrency requirements, except for transportation concurrency, may be waived within areas designated as Urban Infill and Redevelopment Areas, pursuant to section 163.2517, F.S., but the waiver must be adopted as a plan amendment following the small scale amendment procedure in section 163.3187(3)(a), F.S. The law also adds a cross-reference to granting concurrency exceptions for the transportation facilities within such designated urban infill and redevelopment areas, but does not create any new rights since that option is already set forth in section 163.3180(5).

Standing to participate in the local amendment process and to challenge comprehensive plan amendments is increased by revising the definition of "affected person" to include owners of real property abutting the property that is the subject of a proposed change to the future land use map. Therefore, standing is extended to neighboring property owners who are not located within the political jurisdiction making the land use map decision.

Proposed Plan Amendment Transmittal/Review - All local governments must now transmit their proposed plan amendments to the Department of State. For municipalities, plan amendments must also be submitted to the county. Counties must transmit their amendments to the Fish and Wildlife Conservation Commission, as well as the Department of Agriculture and Consumer Services. Review of proposed amendments by the Department of Community Affairs remains optional, or will be conducted upon request, but is streamlined by requiring submission of the Objections, Recommendations and Comments report back to the local government within 60 days of receipt of the

complete proposed amendment, rather than establishing a schedule for submission of agency comments and a thirty-day time period to review agency comments. Affected persons, local governments and the RPC are given 35 days from the date the DCA receives the proposed plan amendment to request review, rather than 30 days from the date of transmittal.

Adopted Plan Amendment Transmittal/Review - There are not as many changes to the process for transmittal of an adopted plan amendment. The complete adopted plan amendment must be transmitted along with a list of persons whose names and addresses are compiled at the public hearings on the plan amendment (see below). If the adopted amendment is unchanged from the proposed amendment, no affected person raised any objections, DCA did not review the amendment, and DCA did not raise any objection to the amendment, the local government may state in its transmittal letter that the plan amendment is unchanged and was not the subject of objections.

DCA has generated new checklists available on their website at www.dca.state.fl.us for transmittal of both proposed and adopted plan amendments. A copy of both checklists are attached for use by the Planning Department.

DCA Notice of Intent - If the transmittal correctly states that the adopted amendment is unchanged and was not the subject of review or objections, DCA has 20 days to issue a notice of intent that the plan amendment is in compliance. Local governments with an Internet site are required to post a copy of the DCA notice of intent on their site within 5 days after receipt.

Public Hearings - new requirements for transmittal and adoption public hearings include provision of a sign-in form for the public to provide their names and addresses and advising them that they will receive courtesy information from DCA regarding publication of notices relating to the plan amendments which are the subject of the hearing. Local governments are required to add to the sign-in form the name and address of any person who submits written comments concerning the plan amendments during the time period between the transmittal hearing and the adoption hearing. DCA is required to provide a model sign-in form, and has done so on its website at www.dca.state.fl.us. **A copy of the sign in sheet is attached for future use by the Tallahassee-Leon County Planning Department for transmittal and adoption hearings.**

Counties with a population greater than 100,000, such as Leon County, are required, along with the municipalities and special districts within the county, to submit a report to the Department of Community Affairs, by **January 1, 2004**, identifying existing or proposed interlocal service delivery agreements and which identifies deficits or duplication in the provision of services. In addition, by **February 1, 2003**, representatives of special districts, municipalities and counties are to recommend statutory changes regarding annexation to the Legislature.

School Planning

Local governments are now required to enter into interlocal agreements with school boards to address issues such as school siting, enrollment forecasting, school capacity, infrastructure and safety needs of schools, schools used as emergency shelters, and sharing of facilities. This requirement is brought about by changes to both chapters 163 and 235, Florida Statutes. The interlocal agreements must be submitted to DCA for review between **March 1, 2003 and December 1, 2004**, on a schedule to be adopted by DCA by rule. DCA will send out notifications and must develop model agreements. The adopted interlocal agreements will be reviewed and approved by DCA with the assistance of the DOE, and the law provides for "affected person" challenges to the interlocal agreement. The penalty for failure to enter into such interlocal agreements is the withholding by the Governor and Cabinet of five percent of eligible state revenues to the local government and the school board. There is an exemption for local governments which are not experiencing growth in their school-aged population.

Educational Facilities Benefit Districts⁵

The law authorizes the creation of educational facilities benefit districts by interlocal agreement between a school district and a local government. The benefit district is an alternative mechanism for funding the construction and maintenance of educational facilities. Creation of a district requires the consent of the school district, the jurisdictional local government and all property owners within the area of the district to be created. If created, the district will assist in the construction and maintenance of school facilities with a levy of non-ad valorem assessments. The school board would contribute impact fee revenues generated by development within the benefit district, and one-half of the remaining construction costs, up to the cost-per-student criteria established by the SIT Program. School construction by the benefit district may occur on publicly-owned land or on private land leased to the school board.

Enterprise Zones

The bill authorizes application to the Office of Tourism, Trade and Economic Development for several new enterprise zones, including one by Leon County or jointly by Leon County and the City of Tallahassee. The law provides that the new enterprise zone shall not exceed 20 square miles and shall have a continuous boundary, or consist of not more than three noncontiguous areas. The law provides the census tract and block group numbers which the new zone shall encompass, provides that the application must be submitted by **December 31, 2002**, and authorizes the creation of the new zone notwithstanding statutory limits on the total number of designated enterprise zones.

⁵ This section is taken in large part from the Department of Community Affairs website publication titled "Major Provisions of SB 1906, Growth Management, and HB 261 and HB 715 concerning Transportation."

On May 28, 2002, Leon County adopted Resolution 02-15 delineating the Nominated Area for an Enterprise Zone to implement this new authority.

Conclusion

Several deadlines appear in SB1906, as set out below:

December 31, 2002:	Enterprise applications due to OTTED;
February 1, 2003:	Representatives of special districts, municipalities, and counties to recommend changes regarding annexation to the Legislature;
March 1, 2003 – December 1, 2004:	DCA will schedule date for submission of an interlocal agreement regarding school siting between local governments and the school board;
January 1, 2004:	Representatives of special districts, municipalities, and counties to submit report to DCA regarding interlocal service delivery agreements and any deficiencies in the same; and
January 1, 2005:	Utilities Element to be amended to address ten-year water supply workplan.

If you need a copy of the legislation, have any comments, or have questions, please call either Suzanne Schmith, Assistant County Attorney, at 487-1008, or Linda Hurst, Assistant City Attorney, at 891-8554.

Attachments

cc: Members of the Leon County Board of County Commissioners
Members of the Tallahassee City Commission
Parvez Alam, County Administrator
Anita Favors, City Administrator
Michael Wright, Assistant City Manager
Gary Johnson, Director of Leon County Community Development
Bob Herman, Director of Tallahassee Growth Management Department

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Comprehensive Plan Citizen Courtesy Information List

Local

Government: _____

Hearing Date: _____

Type Hearing: Transmittal (Proposed) Adoption

DCA Amendment Number: _____ (DCA Official Use)

Please Print Clearly

By providing your name and address you will receive information concerning the date of publication of the Notice of Intent by the Department of Community Affairs.

Citizen Name	Address, City, State, Zip Code	<input type="checkbox"/> Check Appropriate Response(s)		Identify Amendment which is of Interest
		Written Comment	Spoken Comment	

RULE 9J-11, F.A.C., SUBMITTAL REQUIREMENTS FOR
PROPOSED COMPREHENSIVE PLAN AMENDMENTS

June 2002

NUMBER OF COPIES TO BE SUBMITTED: Please submit three copies of the proposed amendment package to the Florida Department of Community Affairs and one copy each to the Florida Department of Environmental Protection (DEP), appropriate Florida Department of Transportation (DOT) district office, Department of State (DOS), appropriate Regional Planning Council (RPC), the appropriate Water Management District (WMD), Office of Educational Facilities of Commissioner of Education (if related to public educational facilities element pursuant to 163.31776, F.S.), appropriate County, the Florida Fish and Wildlife Conservation Commission (FFWCC) (county plans only), and Florida Department of Agriculture and Consumer Services (DOACS), Division of Forestry (county plans only).

SUBMITTAL LETTER REQUIREMENTS: Please include the following information in the cover letter transmitting the proposed amendment (Rule 9J-11.006(1)(a), F.A.C.):

_____ The date(s) the local planning agency and the city commission held public hearings (Rules 9J-11.006(1)(a) 1 and 9J-11.006(1)(a)2, F.A.C.);

_____ A statement certifying that the proposed amendment(s) have been submitted to DEP, DOT, DOS, the RPC and the WMD, County, Education (PEFE related only), FFWCC (county only), and Agriculture (county only). Certification means that the letter must state that a copy of each item specified under 9J-11.006(1)(a)(b)(c) and (d), F.A.C., has been mailed to these agencies and the date the amendment package was mailed (Rules 9J-11.006(1) and 9J-11.006(1)(a)1., F.A.C.);

_____ A statement certifying that a copy of the adopted plan, including amendments, associated data and analysis and all support documents, has been submitted to the review agencies listed in Rule 9J-11.009(6), F.A.C. If amendment is based on EAR, must certify that adopted EAR has been sent to agencies listed in Rule 9J-11.009 (6), F.A.C.; [Rules 9J-11.006(1)(a)8, F.A.C.];

_____ A copy of letters submitted to each review agency providing them with a copy of the complete adopted plan or EAR, if applicable. Note: this is not required if copies of the elements being amended are included in the amendment submittal package (Rule 9J-11.006(1)(a)8., F.A.C.);

_____ A summary of the plan amendment(s) content and effect (Rule 9J-11.006(1)(a)3, F.A.C.);

_____ A statement indicating whether to have DCA review the proposed amendment as provided in 163.3184(3) (a), F.S., (Rule 9J-11.006(1)(a)3., F.A.C.);

_____ The month the local government anticipates the amendment will be adopted (Rule 9J-11.006(1)(a)4., F.A.C.);

_____ The name, title, address, telephone, FAX number, and e-mail of the local contact person (Rule 9J-11.006 (1)(a)10, F.A.C.);

_____ A statement indicating whether the amendment is applicable to an area of critical state concern (Rule 9J-11.006(1)(a)5., F.A.C.)

_____ A statement indicating whether the amendment(s) is located within Orange, Lake or Seminole Counties and subject to the Wekiva River Protection Area, pursuant to Chapter 369, Part III, F.S. (Rule 9J-11.006(1)(a)6., F.A.C.);

_____ A statement indicating whether the amendment is subject to a joint planning agreement and, if so, a list of the local government(s) that are party to the agreement. If the amendment is subject to a joint planning

agreement, the transmittal letter shall be signed by the chief elected official (or designee) of each local government (Rule 9J-11.006(1)(a)9., F.A.C.).

EXEMPTIONS: A comprehensive plan is exempt from the limit of two amendments per year if it meets any of the following criteria (Rule 9J-11.006(1)(a)7., F.A.C.):

- ☐ The amendment is directly related to a proposed development of regional impact (Rule 9J-11.006(1)(a)7a, F.A.C.);
- ☐ The amendment is directly related to small scale development activities (Rule 9J-11.006(1)(a)7b, F.A.C.);
- ☐ The amendment meets the definition of emergency (Rule 9J-11.006(1)(a)7c, F.A.C.);
- ☐ The amendment is submitted pursuant to a compliance agreement (Rule 9J-11.006(1)(a)7d, F.A.C.);
- ☐ The amendment is directly related to the intergovernmental coordination element (Rule 9J-11.006(1)(a)7e, F.A.C.);
- ☐ The amendment is related to the location of a state correctional facility (Rule 9J-11.006(1)(a)7f, F.A.C.);
- ☐ The amendment identifies the land use categories in which public schools are allowed (Rule 9J-11.006(1)(a)7g, F.A.C.);
- ☐ The amendment updates the five-year schedule of Capital Improvements (Rule 9J-11.006(1)(a)7h, F.A.C.);
- ☐ The amendment is associated with an economic development project (Rule 9J-11.006(1)(a)7i, F.A.C.);
- ☐ The amendment changes the school concurrency service area boundary (Rule 9J-11.006(1)(a)7j, F.A.C.);
- ☐ The amendment is directly related to the redevelopment of a brownfield area (Rule 9J-11.006(1)(a)7k, F.A.C.);
- ☐ The amendment is directly related to Port Transportation Facility (Rule 9J-11.006(1)(a)7l, F.A.C.);
- ☐ The amendment is directly related to Urban Infill Areas (Rule 9J-11.006(1)(a)7m, F.A.C.);
- ☐ The amendment is directly related to Transportation Improvements (Rule 9J-11.006(1)(a)7n, F.A.C.);
- ☐ The amendment is directly related to Public Education Facilities Element (Rule 9J-11.006(1)(a)7o, F.A.C.);
- ☐ The amendment is directly related to FLUM school sites in Public Education Facilities Element (Rule 9J-11.006(1)(a)7p, F.A.C.);
- ☐ The amendment is directly ICE related (Rule 9J-11.006(1)(a)7q, F.A.C.);
- ☐ The amendment is directly related to Boat Facility Siting Plan/Policy (Rule 9J-11.006(1)(a)7r, F.A.C.)

PROPOSED AMENDMENT PACKAGE: Please include the following information in the proposed amendment package (Rule 9J-11.006(1)(b), (c) and (d), F.A.C.):

☐ All proposed text, maps and support documents (including data and analysis) reflected on new pages of the affected amendment in a strike-through/underline format (or similar easily identifiable format);

_____ Identify the plan amendment number of each page affected (Rule 9J-11.006(1)(b), F.A.C.);

_____ Staff, local planning agency and local governing body recommendations (Rule 9J-11.006(1)(c), F.A.C.);

_____ Support documents or summaries of the support documents on which the recommendations regarding the proposed plan amendment(s) are based (Rule 9J-11.006(1)(c), F.A.C.);

_____ Copies of the entire elements being amended if the local government did not certify that it submitted copies of its adopted plan to review agencies (Rule 9J-11.006(1)(a)8., F.A.C.).

_____ For Future Land Use Map amendments, please include a future land use map depicting:

_____ The proposed future land use designation of the subject property (9J-11.006(1)(b)1.a., F.A.C.)

_____ The boundary of the subject property and its location in relation to the surrounding street and thoroughfare network (9J-11.006(1)(b)1.a., F.A.C.);

_____ The present future land use map designations of the subject properties and abutting properties (9J-11.006(1)(b)1.b., F.A.C.).

_____ An Existing Land Use Map depicting:

_____ The existing land use(s) of the subject property and abutting properties (Rule 9J-11.006(1)(b)2, F.A.C.);

_____ In addition:

_____ The size of the subject property in acres or fractions thereof (Rule 9J-11.006(1)(b)3., F.A.C.)

_____ A description of the availability of and the demand on sanitary sewer, solid waste, drainage, potable water, traffic circulation and recreation, as appropriate (Rule 9J-11.006(1)(b)4., F.A.C.);

_____ Information regarding the compatibility of the proposed land use amendments with the Future Land Use Element goals, objectives and policies, and those of other affected elements (Rule 9J-11.006(1)(b)5., F.A.C.).

_____ If a local government relies on original data, or data and analysis from a previous amendment, it shall provide to DCA, at the time of submittal, a reference to the specific portions of the previously submitted data and analysis on which the local government relies to support the amendment (Rule 9J-11.007(2), F.A.C.);

_____ If previous data and analysis is no longer the best available existing data or no longer supports the plan, then copies of updated and reanalyzed data and analysis must be submitted to support the proposed amendment (Rule 9J-11.007(1), F.A.C.). Note: Remember 9J-11.006(1) states that applicable data and analysis must accompany the amendment packages submitted to DCA, DEP, DOT, DOS, the RPC and the WMD, County, Education (PEFE related only), Fish & Wildlife (county only), and Agriculture (county only).

_____ All plan amendments must meet the requirements of Rule 9J-5, F.A.C. (Rule 9J-11.007(3), F.A.C.).

RULE 9J-11, F.A.C., TRANSMITTAL REQUIREMENTS FOR THE SUBMISSION OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

June 2002

NUMBER OF COPIES TO BE SUBMITTED: Please submit three copies of the adopted amendment package to the Florida Department of Community Affairs and one copy each to the Florida Department of Environmental Protection, appropriate Florida Department of Transportation district office, appropriate Regional Planning Council, and the appropriate Water Management District, Office of Educational Facilities of Commissioner of Education (if related to public educational facilities element pursuant to 163.31776, F.S.), appropriate County, Florida Fish & Wildlife Conservation Commission (county plans only), and Florida Department of Agriculture Division of Forestry (county plans only).

SUBMITTAL LETTER REQUIREMENTS: Please include the following information in the transmittal cover letter transmitted the adopted amendment (see Rule 9J-11.011(5), F.A.C.):

_____ DCA identification number for adopted amendment package;

_____ Name of newspaper in which the Department will publish the required Notice of Intent (Rule 9J-11.011(5) F.A.C. and Section 163.3184(15)(e), F.S.);

_____ Brief description of the adoption package, including any amendments previously proposed but not adopted (Rule 9J-14.011(5)(a)5, F.A.C.);

_____ Ordinance number and adoption date (Rule 9J-11.011(5), F.A.C.);

_____ Certification that the adopted amendment(s) has been submitted to all parties listed in Rule 9J-11.009(6), F.A.C. (Rule 9J-11.011(5), F.A.C.);

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government (Rule 9J-11.011(5), F.A.C.).

_____ If the plan amendment is unchanged and was not subject to review or objections, a statement requesting expedited publication of notice of intent. The transmittal letter shall include the following language: **The comprehensive plan amendment package was adopted without revision from the proposed amendment package and no objections were raised by an affected party, the amendment was not reviewed by the Department or if reviewed no objections were raised. Based upon these facts, we request expedited publication of a Notice of Intent pursuant to Section 163.3184(8), Florida Statutes.**

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package (Rule 9J-11.011(5), F.A.C.):

_____ All adopted text, maps and support documents (including data and analysis) on new pages of the affected amendment in a strike-through/underline format (or similar easily identifiable format). In case of future land use map amendment, the adopted future land use map reflecting the changes made when adopted. Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required.

_____ Copy of executed ordinance adopting the comprehensive plan amendment(s);

_____ Copy of the Citizen Courtesy Information List. In event no individuals sign up to receive a courtesy information statement, indicate on sign-in form that no request were made and include the form in the adopted package.

[9J-11.015(5)(b)4 and 163.3184(15)(c), F.S.] (Section 163.3184(8)(b)2, F.S.);

_____ List of additional changes made in the adopted amendment that the Department did not previously review (Rule 9J-11.011(5)(a)5.a, F.A.C.);

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment (Rule 9J-11.011(5)(a)5.b, F.A.C.);

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department to the ORC report from the Department (Rule 9J-11.011(5)(a)5.c, F.A.C.)

_____ List of proposed amendments previously reviewed by the Department in current cycle of amendments that were not adopted by local government (Rule 9J-11.011(5)(a)5.d, F.A.C.)

_____ If local government uses replacement page format: copies of newly adopted comprehensive plan pages that contain newly adopted plan amendments and new cumulative table of contents (Rule 9J-11.011(5)(e), (f), F.A.C.).